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(159)

The Record of the Supreme Court of the State of Missouri

Term of June 1821

The supreme court of the State of Missouri began and held at the Courthouse in the Town of Jackson in the County of Cape Girardeau on the third monday in June being the eighteenth day of the month in the year of our Lord Eighteen hundred and twenty one and of the Independence of the State of Missouri the first, Present the Honourable Mathias McGirk and the Honble John D. Cook Judges of said Court. the Court met 20 minutes after 6 p.m.

James Evans who was appointed Clerk of the supreme Court of the State of Missouri for the fourth Judicial district, having given bond & security, and having taken the necessary oaths as prescribed by the Constitution and laws of this State and having presented a Commission from his Excely Alexander McNair Govr of the State of Missouri commissioning him as Clerk, was accepted of by the court.

The Commission of John Hays Sheriff of the County of Cape Girardeau having been produced to the Court, and the appointment of William Garner as his deputy, and it appearing to the satisfaction of the Court that they are duly qualified agreeable to law, they are recognized as the Sheriffs of this Court.

The Court adjourned until nine O'clock to morrow morning held for the Fourth Judicial District June Term 1821

Tuesday 19th June 1821 and second day of the Term

The Court met pursuant to adjournment present the Honble Mathias McGirk and the Honble John D. Cook. ~~John~~ Rice Jones Judges. Rules for the Supreme Court.

1 The oldest Judge in commission is President of the Supreme Court, and in his absence the next oldest in Commission shall preside for the time being.

2 When the Judges deliver seperate opinions the Junior Judge shall proceed first, and so on in order.

3 The President shall superintend matters of order in the Courthouse.

4 When writs of Error issue a sci. fa. to the defendant in Error to hear Errors shall issue at the same time, and shall be returnable at the same time the writ of Error is returnable.

5. On the return of a writ of Error and sci. fa served Errors shall be assigned within the three first days of the Term. Joinders in Error shall be filed within three days thereafter if the Term should last so long- and if not, then on the last day of the Term. otherwise the Error shall be taken to be Confessed, and there shall be Judgment accordingly. unless the Court by the consent of the parties direct otherwise.

6 In cases of appeal Error shall be assigned as on writ of Error, otherwise Error shall be Considered waved, and proceedings shall be had accordingly, and Joinder to Error in appeal shall be ~~ta-~~ ~~ken~~ made instanter otherwise the Error assigned shall be taken to be confessed ~~to be Confessed~~, ~~and Judgment~~ shall be given accordingly unless the Court give further time.

7 As soon as there is a Joinder in Error each party shall furnish to each Judge a statement of the Case, and the points he relies on.

8 All motions shall be in writing, signed by Counsel and filed x record.

9 The parties may by leave of the Court set their causes for argument on any given day, Or the ~~court~~ Court may set a cause for argument.

Any alteration or interlineation made in the sixth rule of the ~~orders~~ of the supreme Court

M McGirk President

and when a cause is cal'd as set for hearing by the Clerk, by the parties aforesaid, or by the Court - if either or both parties do not proceed with the Argument - the Court will take the cause to be submitted and proceed accordingly.

10 Each attorney employed in a cause shall mark his name to the Cause. Otherwise he shall not be heard on the Argument of the same.

11 Whenever any alteration is made in an entry of the Clerk a memorandum thereof shall be made in the margin and signed by the president of the Court.

12 At the end of each Term and immediately preceding the adjournment of the Court - the Court shall make a memorandum in the book of Judgments, and proceedings - which memorandum shall state the number of pages containing the proceedings of that term, and shall state the number of the page of the book where the same ends.

13 The Clerk of the Supreme Court shall on the first day of each term deliver to each Judge a Copy of the record in each Cause in which there was an Assignment of Errors at the preceeding Term - Or which may have been filed in his office ten days before the Term.

14 The statement of points relied on to be furnished by Counsel to each Judge, shall be delivered on the first day of each Term.

It is ordered by the Court that the Clerk shall procure [illegible] this Court, which shall be of a circular form to be not more than two inches and a half in diameter nor less than two to be indented in the margin, and to be so engraved as to present a distinct impression, near the margin inside of the indenting the words Seal of the Supreme Court of the State of Missouri 4th Judicial district, and in the center the spread Eagle, which when procured shall be the seal of this Court.

John Payne Jr. came and presented a License from the Honourable John D. Cook Esqr. licensing of him to Practice as Counsellor and Attorney at law in the Supreme and inferior

Court of Record in the State of Missouri, with the oath of office endorsed thereon, whereupon he is admitted in this Court accordingly.

Beverly Allen came and presented a License from the Honourable John D. Cook Esquire, licensing of him to practice as Counsellor and Attorney at law, in the Supreme and inferior Courts of the State of Missouri, with the oath of office endorsed thereon. Whereupon he is admitted in this Court accordingly.

Thomas Mosely jr Jasper
J. Sprigg James M Cropper
and Medad Randol. Compts.
against
Alexander Buckner and
Isaac Williams Defts

Application for an Injunction
The Complainants by their Solicitors came, and read the bill, after the same was read, on motion they withdrew their said bill.

John Wellborn
vs
Thomas H Tindall

On Writ of Error.
The Plaintiff by Alexander Buckner his attorney came, and on motion an alias scire facias ad audiendum Errors is awarded into the County of Cape Girardeau &c

Same
vs
Same

On Writ of Error
Same order.

The Honourable John Rice Jones Esqr. appeared & took his seat.

William Clark Governor
for the use of William Gentry
vs
Dubart Murphy, Jesse
Murphy, William Mitchell &
Acquilla Mitchell

On Writ of Error.
This day the parties by their Attornies came, whereupon the record and proceedings aforesaid, and the Judgment given in form afore-

said being seen, and the matters for Error therein being joined, heard and argued, the Court will thereupon advise &c. The Hon. Jno. D. Cook withdrew from this Cause

State of Missouri
versus
John Callaway and others

On Writ of Error.
This day came the State by Greer W. Davis the Circuit attorney, whereupon the record and proceedings aforesaid, and the Judgment given in form aforesaid, being seen, and the matters for Error therein being joined heard and argued, the Court will thereupon advise &c

James Bryan
vs
The President, directors and Company of the bank of St. Louis

On Writ of Error.
This Cause is Continued by the Court untill the next Term of this Court.

James Bryan
vs
William Alexander

On Writ of Error.
This Cause is Continued by the Court untill the next Term of this Court.

James Logan
vs
Louis Laport admr. of Louis Alprin Decd.

On Writ of Error.
This day came the Plaintiff by his attorney and Continued this Cause untill the next Term of this Court.

Charles G. Ellis
vs
Erasmus Ellis

On Writ of Error.
This day came the Plaintiff by his attorney, and the Defendant by Alexander Buckner his attorney and waves the necessity of a scire facias to hear Error in this Cause, and the Cause Continued untill the next Term of this Court.

Whereupon the Court adjourned untill to morrow 9 oclock

On Wednesday the third day of the Term, and twentieth day of the month of June in the year Eighteen hundred and twenty one, the Supreme Court met at nine OClock in the morning pursuant to adjournment.

Present the Honourable Mathias McGirk Esquire
Honourable John D, Cook Esquire &
Honourable John Rice Jones Esquire
Judges of the said Supreme Court.

William Clark Governor for use of William Gentry
vs
Durbart Murphy and Jesse Murphy (impl &c)

On writ of Error.

The parties by their attornies came and the Court being now sufficiently advised of and upon the premises &c. it appears that there is no error in the rendition of the Judgment aforesaid; Therefore it is Considered by the Court here, that the Judgment aforesaid, in all things aforesaid, be affirmed &c. and it is further Considered by the Court that the Defendants do recover against the Plaintiff as well his Costs aforesaid, as also his Costs in this in this behalf Expended and that he have Execution thereof &c — 3

On the trial of the above Cause Honble John D. Cook Esquire who were formerly of Counsel for the Defts withdrew from the bench.

The following is the Opinion of the Judges delivered in the above Cause.

William Clark Governor &c
vs
Durbart & Jesse Murphy impleaded with others

Writ of Error from the Circuit Court, St. Genevieve County

This is an action of Covenant

brought on an administrator bond, the declaration States that the said bond or writing obligatory was made to the Governor &c in the sum of three thousand Dollars with a condition by which condition it was covenanted &c by this it plainly appears that the writing declared on is nothing but an administrator bond. The declaration set out several breaches, the defendants plead performance generally to this plea the Plaintiff demurs generally on the trial the Court say the demurrer is sustained because the declaration is bad. and yet go on to give judgment for the Defendants apparently. because of the badness of the Declaration - The regular course would have been to have overruled the Demurrer for the fault in the Declaration & to have given Judgment for the Defendant -

This Court is of Opinion that the judgment for the Defendants is right and although we cannot see why the Demurrer was sustained, because of the badness of the Declaration, yet we think on this kind of bond Covenant will not lie but the action should be Debt. let the judgment be affirmed

(Signed) M. McGirk
Jno. Rice Jones } Judges

State of Missouri } On writ of Error
vs
John Callaway & others } This cause is continued until the next Term of this Court.

Memorandum, this record Book contains seven pages of the judgments & proceedings of the Supreme Court of the State of Missouri made at this present Term beginning with page one hundred and fifty nine & ending with page 165.

M. McGirk President

for the fourth Judicial District June Term 1821.

Whereupon the Supreme Court adjourned until the next Term of this Court.

The Records of the Supreme Court of the State of Miſsouri

Term of December 1821

The Supreme Court Court of the State of Miſsouri begun and held at the Courthouse in the Town of Jackson and County of Cape Girardeau on the third Monday in December, being the seventeenth day of the month in the year of our lord eighteen hundred and twenty one, and of the Independence of the State of Miſsouri the second, Present the Honorable John, D, Cook and the Honorable John, Rice, Jones Judges of said Court, the Court met at 2 O'Clock P.M —

Peter R. Garrett who was appointed Clerk of the Supreme Court of the State of Miſsouri for the fourth Judicial District having given bond and security, and having taken the neceſsary Oaths, as prescribed by the Constitution and Laws of the State, and having presented a Commiſsion from his Excellency Alexander McNair Governor of the State of Miſsouri, Commiſsioning him as such, was recognized as the Clerk of this Court —

Nathaniel W. Watkins Came and presented a licence from the Honorable John, D, Cook licenceing of him to practice as Councellor and attorney at Law, in the Supreme and inferior Courts of the State of Miſsouri, with the Oath of Office endorsed thereon, whereupon he is admitted in this Court Accordingly —

William Brown
Versus
William S Gantt

The parties by their attorneys came on Motion of the plaintiff it is ordered by the Court that the sheriff return the Execution herein, instanter, and thereupon the sheriff returns the same —

Whereupon the Court adjourned until tomorrow Morning 10 O'Clock
Teste
Peter R. Garrett Clk

On Tuesday the second day of the term and eighteenth day of the month of December in the year eighteen hundred and twenty one, the Supreme Court Met at 10 O'Clock in the Morning pursuant to adjournment
Present
The Honorable John D. Cook Esquire
and
The Honorable John Rice Jones Esquire
Judges of the said Supreme Court

Green M. Davis Circuit attorney for the fourth Judicial Circuit, Came herein to Court, and moved for a rule against the Justices of the County Court of Cape Girardeau County, to show cause why a Mandamus should not issue to them, Commanding them to allow a certain Account herein filed in affidavit of said Davis, for his services rendered as Circuit attorney for the said Circuit, at the term of December 1820 of said Circuit Court. The Court after being sufficiently advised of the premises will Consider of the Same —

14. J. D. C.

An alteration made in the Case of William Brown vs William S. Gantt which ought to be William Brown vs John Hays Sheriff

Thomas W. Graves and Samuel Ravenscraft administrators of Levi Wolverton deceased
versus
John Black } on writ of Error

The parties by their attorneys came and the Defendant moved to dismiss the Writ of Error, on Exception, that the sum mentioned in the Plaintiffs Action, not being within the Jurisdiction of this Court. The Court not being sufficiently advised of and Concerning the premises will Consider of the same —

William Brown
versus
William S. Gantt }

The Plaintiff by Alexander Buckner his attorney Came, and moved for a rule against the Sheriff of St. Genevieve County to show Cause why certain moneys received on an Execution in favour of John Thompson and James Thompson administrators of John Thompson deceased against said Gantt and Others, should not be appropriated to the Satisfaction of sundry elder Executions in favour of said Brown and others against the the said Gantt, issued from the late Superior Court of the Southern Circuit — The Sheriff Came into Court, and having waved the Necessity of notice in the foregoing Case as the Law directs, the rule to show Cause is accordingly granted, and upon argument of Council in the above Case the Court took the same under advisement

Whereupon the Court adjourned untill tomorrow Morning 10 OClock

On Wednesday the third day of Term and nineteenth day of the Month of December in the year eighteen hundred and twenty one the Supreme Court aforesaid met at 10 OClock in the morning Pursuant to adjournment. Present

The Honorable John D. Cook Esquire
and
The Honorable John Rice Jones Esquire
Judges of the said Supreme Court

James Logan
versus
Louis Lapole administrator of Louis Alfeum deceased — on Writ of Error

The Plaintiff in error Came, and permits this cause to be dismissed, and thereupon it is considered and adjudged by the Court, that the defendant in error do recover against the Plaintiff his costs and charges in and about his defence in this behalf expended and that he have execution thereof.

State of Missouri
Versus
John Callaway et al } On Writ of Error

This Cause is Continued by the Court untill the next term of this Court —

1 John Wilborn
Versus
Thomas H. Tindall } on writ of Error

This cause is Continued by the Court untill the next term of this Court —

2 Same
versus
Same } on writ of Error
Same Order

James Bryan
Versus
The President Directors and Company of the Bank of St Louis.

This Cause is Continued by the Court untill the next term of this Court —

James Bryan
Versus
William Alexander } on writ of Error

This Cause is Continued by the Court untill the next term of this Court.

In the case of the State of Missouri vs John Callaway et al an alteration in the Continuance of said Cause, this cause being under advisement at the last Term of this Court, is still Cont.d the same Judges not attending; and all the causes at issue be Cont.d on account of Judge Cook being of Counsel for one of the parties below.
J. D. C. 4

Thomas H. Graves and Samuel Ravenscraft Administrators of Levi Wolverton deceased
Versus
Jonas Priest } On Writ of Error 9

This Cause is Continued by the Court untill the next term of this Court

Roland Boyd } On Writ of Error
Versus
Sarah O. Sargant who sues for the use of Archibald Morgan 10

This Cause is Continued by the Court untill the next term of this Court

Joseph Hughes } On writ of Error
Versus
James G. Fang and Jean Bt. Hubardeau

This Cause is Continued by the Court untill the next term of this Court 11

John Callaway } on writ of Error
Versus
Jacob Nifong

This Cause is Continued by the Court untill the next term of this Court 13

Whereupon the Court adjourned untill tomarow Morning 10 O Clock

On Thursday the fourth day of the term and twentyeth day of the month of December in year of our lord eighteen hundred and twenty one the Supreme Court met at 2 O'Clock P. M —

Present

The Honorable John D Cook Esquire
and the
The Honorable John Rice Jones Esquire
Judges of the said Supreme Court

The Court now being sufficiently advised of and concerning the motion heretofore made by Greer W. Davis against the Justices of the County Court of Cape Girardeau, commanding them to appear and shaw Cause, why a Mandamus should not be issued to them Commanding them to allow a Certain account filed in this Court on affidavit of said Davis, for services by him performed as Circuit attorney for the Circuit aforesaid at the term of December 1820 of said Circuit Court — It appears there is no error in the Opinion of the County Court in not allowing the account of the said Circuit attorney — Therefore it is Considered by the Court here that his application for a mandamus be Overruled —

Thomas M. Evans and Samuel Ravenscroft
administrators of Levi Wolverton deceased
Versus
John Black } an writ of Error 14

The Court not yet being sufficiently advised of and Concerning the premises &c Therefore this Cause is Continued to the next term of this Court

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William Brown
Versus
William S. Gantt }

The parties by their attorneys came and the Motion heretofore made by the Plaintiff in the above Cause for a rule against the sheriff of Cape Girardeau County to shew Cause why [illegible] received on an execution in favour of John Thompson and James Thompson administrators of John Thompson deceased against said Gantt and others, should not be appropriated to the satisfaction of sundry elder Executions in favour of said Brown and others against the said Gantt issued from the late Superior Court of the Southern Circuit And the Court now being sufficiently advised of and upon the premises are of Opinion that the Motion be overruled

The Records of the Supreme Court of the State of

Joel Blunt
versus
William Sheppard } on Writ of Error

The Plaintiff by Alexander Buckner his attorney Came, and moved for a rule against the Circuit Court for the County of Cape Girardeau to shew Cause why the writ of error and record in this Case, was not sent up to this Court — The Court being advised are of Opinion that the Motion be sustained — (and that the Judge of said Circuit Court appear here, at the next term of this Court and shew cause why he did not) And it is further Ordered by the Court that he be served with a Copy of this rule —

It is ordered by the Court that the Judge of the Circuit Court of the County of Cape Girardeau return the writ of Error in this Case of Joel Blunt vs William Sheppard or shew cause at the next Term of this Court why the same is not returned. J.D.C. 8

12

Charles G. Ellis
versus
Erasmus Ellis } on writ of Error

The Plaintiff by his attorney Came and assigned errors in this cause in which the defendant by his attorney joined, and this cause is continued to the next term of this Court —

Whereupon the Supreme Court adjourned to Nine OClock tomorrow Morning

Teste
Peter R. Garret Clk

On Friday the fifth day of the term and twenty first day of the month of the month of December in the year of our lord eighteen hundred and twenty One The Supreme Court Met at 9 O'Clock pm Pursuant to adjournment

Present
The Honorable John, D Cook Esquire
The Honorable John Rice Jones Esq
Judges of the said Supreme Court

~~Memorandum – This Record Book Contains nine pages of the Judgments and proceedings of the Supreme Court of the State of Missouri made at this present term, beginning with page one hundred and sixty seven and ending with page one hundred and seventy five~~ —

Thomas M. Graves & Samuel Rannser
admt administrators of Levi Wolverton dec'd
John Evans Black } on writ of error — 14

The parties by their attorneys came, and the Plaintiff moved for a supersedeas to issue upon the foregoing writ of error – The Court not being sufficiently advised of and concerning the premises doth take time to consider of the same —

Resdon, H, Price
Versus
William, S, Gantt

This day came the Plaintiff by his attorney, and the scire in this cause being returned executed, and the defendant failing to appear and plead - Therefore it is Considered by the Court that the Plaintiffs original Judgment had in this Cause be revived, and that he recover of the defendant his costs by him about his revival of his said Judgment, in this behalf expended

John Callaway
13 Versus
Jacob Nifong — on writ of Error

The order of Continuance heretofore taken in this Cause is set aside by Consent, and the Plaintiff here assigns his errors, and the defendant joins therein and this Cause is Continued untill the next term of this Court

Thomas H Graves and Samuel Brunsay of
14 administrators of Levi Wolverton deceased
Versus
John Black — on writ of Error

The Court now being sufficiently advised &c it is ordered ~~that~~ a Super cedias issue, and thereupon Came Charles Carey who acknowledges himself to be

indebted to John Black in the sum
of one hundred and thirty Dollars
to be levied on his tenements goods
and chattles, on condition that Thomas
W. Graves and Saml Ravenscraft
administrators of Levi Wolverton decd
and do satisfy and pay the amount
of the Judgment or such part
thereof as may be affirmed and
Costs ~~not exceed~~ together with dam
-ages not exceeding the rate of
10 per Cent per annum as this
Court shall direct from the time
such Judgment was rendered untill
the affirmance thereof in whole
or in part and legal interest on
the amount thereof untill paid

which said Charles Sevrns is approved
of by the Court as Security —

Memo: This record Book Contains twelve
pages of the Judgments and proceedings
of the Supreme Court of the State
of Missouri made at this present
term, beginning with page one hundred
and sixty seven and ending with
page one hundred and seventy
eight —

J B Clark

Term of May 1822

The Supreme Court of the State of Miſsouri, held for the fourth Judicial District of said State, at the Town of Jackson, in the County of Cape Girardeau, of the term of May, in the year of our lord, one thousand eight hundred and twenty two and of the Independence of the State of Miſsouri the second year —

On the fourth Monday of May, in the year aforesaid, the first day of said term, and twenty seventh day of the month, the said Supreme Court failing to be held, William Garner Deputy sheriff of the County of Cape Girardeau aforesaid, adjourned said Supreme Court until tomorrow —

Teste
Peter R. Garrett Clk

On tuesday the second day of the term, and twenty eighth of May in the year aforesaid the said Supreme Court still failing to be held, the said sheriff adjourned said Supreme Court until tomorrow —

Teste Peter R Garrett Clk

On wednesday the third day of the term, and twenty ninth day of May, in the year Eighteen hundred and twenty two, the said Supreme Court, met at nine O.Clock in the morning —

Present the Honorable Mathias McGirk
The Honorable John Rice Jones the
Judges of said Supreme Court

Benjamin D. Wright Esquire attorney at Law Came, and on Motion, it is Ordered by the Court, that he be enrolled as attorney and Counsellor in this Court

James Bryan
versus
The President Directors & Company of the Bank of St Louis
} on writ of Error

The defendants by their attorney Came, and the plaintiff although solemnly Called came not, but permits his suit to be dismissed, Therefore it is considered by the Court, that the defendants do recover against the plaintiff their Costs in this behalf expended &c

James Bryan
versus
William Alexander
} On writ of Error

The defendant by his attorney Came, and the plaintiff although solemnly Called came not, but permits his suit to be dismissed, Therefore it is Considered by the Court, that the defendant do recover against the plaintiff the Costs of this suit &c

Thomas M. Graves and Samuel Ravenscraft
administrators of Levi Wolverton deceased
9 Versus } on writ of Error
Zenas Priest

The parties by their attornies Came, whereupon the record and proceedings aforesaid, and the judgment given in form aforesaid being seen, and the matters for error therein being joined heard and argued, the Court will thereupon advise &c —

10 Roland Boyd } on writ of Error
Versus
Sarah O Sargant who sues for the use of Archibald Morgan

The plaintiff by his attorney Came, and on his motion, this Cause is Continued until the next term of this Court

Whereupon the Supreme Court adjourned until tomorrow Morning Nine OClock

Teste
Peter R. Garrett Clk

On thursday the fourth day of the term and thirtieth day of May in the year of our Lord one thousand eight hundred and twenty two, the Supreme Court, met at Nine O'Clock in the morning pursuant to adjournment —

Present The Honble Mathias McGirk
The Honble John Rice Jones
Judges of the said Supreme Court

State of Missouri
versus
John Callaway et al } On writ of Error

4

The Court being now sufficiently advised of, and Concerning the premises, and having inspected the record and proceedings herein, it appears that there is no error in the rendition of the Judgment aforesaid, — Therefore it is Considered by the Court here, that the Judgment aforesaid, in all things aforesaid, be Affirmed, And it is further Considered by the Court, that the plaintiff recover against the defendants, the Costs in this behalf expended &c —

Thomas W. Graves and Samuel Ravenscraft
administrators of Levi Wolverton deceased
versus
James Priest } On writ of Error

7

This day Came the parties aforesaid, and the Court being now sufficiently advised of and Concerning the premises, and all and singular the Matters herein, being seen, and by the Court fully understood, they are of Opinion that the judgment aforesaid be reversed, that the Cause be remanded to the Court from whence it came, for new proceedings to be had, not inconsistent with the opinion of this Court and that the plaintiffs recover against the defendant their Costs in this behalf expended which is ordered to be Certified to the said Court

Daniel F. Steinbeck } On writ of Error
versus
23 Mary Lisa Executrix & Charles S. Hempstead Executor of Manuel Lisa deceased

On Motion of Timothy Davis Esquire he is permited by the Court, to enter his appearance for the defendants in this Cause —

Joseph Hughes } On writ of Error
versus
11 James J. Tong and Jean Bt. Hubardeau

The plaintiff by his attorney Came, and it appearing that the return of the sheriff on the Sci fa in this Cause, is insufficient, leave is therefore given him, to amend his Return whereupon this Cause is Continued until the next term of this Court

Joel Blunt
versus } On writ of error
12 William Sheppard

The parties by their attorneys came, whereupon the record and proceedings aforesaid and the judgment given in form aforesaid, being seen, and the matters for error therein being joined heard and argued, the Court will thereupon advise &c

John McIlborne
versus } On writ of Error
Thomas H. Tindall

The parties by their attornies came, and the matters for error herein being joined, this Cause was submitted to the Court, and the Court not being sufficiently advised of and concerning the premises, will consider of the same 1

John McIlbarne
versus } On writ of error 2
Thomas H Tindall

Same Order

Francis Marion
versus } On writ of Error 18
Bernard Pratte & Joseph Pratte

The plaintiff in error by his attorney came and permits his suit to be dismissed, and therefore it is considered by the Court that the defendants in error do recover against the plaintiff their Costs and charges paid about their defence in this behalf expended &c

Samuel Anthony
versus } On writ of error 21
William Stephens

The parties by their attornies came, and moved for a rule against the Circuit Court for the County of Madison, to show Cause why the writ of Error in this Case was not sent up to this Court — It is Ordered by the Court, that the Judge of the Circuit Court of the County aforesaid, return the writ of Error in this Case, or shew Cause at the next term of this Court, why the same is not returned, and it is further Ordered that he be served with a Copy of this rule, Whereupon on Motion of the plaintiff this Cause is Continued to the next term of this Court

8 Charles G. Ellis
versus
Erasmus Ellis } On Writ of Error

This Cause Came on to be heard in the presence of Counsel on both sides, Whereupon the record and proceedings aforesaid, and the Judgment given in form aforesaid, being seen, and the Matters for error therein being joined, heard and argued, the Court will thereupon advise &c

Whereupon the Supreme Court adjourned until tomorrow Morning 9. OClock

Teste
Peter R Garrett Clk,

On friday the fifth day of the term, and thirty first day of May, in the year eighteen hundred and twenty two, the Supreme Court met at Nine O'clock in the morning pursuant to adjournment, Present.

The Honorable Mathias McGirk
The Honorable John Rice Jones
The Judges of said Supreme Court

John Willborne
versus
Thomas H. Tindall } On Writ of error. 1

The Court now being sufficiently advised of and concerning the premises, and having inspected the record and proceedings herein, and all and singular the matters and things herein, being seen, and by the Court fully understood, They are of Opinion, that the judgment of the Circuit Court aforesaid be Reversed & that the cause be remanded to the Court from whence it Came for new proceedings to be had, not inconsistent with the opinion of this Court, and that the plaintiff recover of the defendant his Costs in this behalf expended &c. which is Ordered to be Certified to the said Court

John Willborn
versus
Thomas H. Tindall } On writ of Error 2

Same Order

Joel Blunt
versus
12 William Sheppard } On writ of error

5

The Court now being sufficiently advised of, and Concerning the premises, and having inspected the record and proceedings therein, — It appears that there is no error in the rendition of the judgment aforesaid — Therefore it is Considered by the Court here, that the judgment aforesaid, in all things aforesaid, be Affirmed, and that the defendant recover against the plff. his Costs in this behalf expended &c —

Charles G. Ellis
8 versus } on writ of error
Erasmus Ellis

The Court being now sufficiently advised of, and Concerning the premises, and all and singular the matters herein, being seen and by the Court fully understood — They are of opinion that the judgment of the Circuit Court, be Reversed, that the Cause be remanded to the Court from whence it came for new ~~proceedings~~ Trial to be had, not inconsistant with the opinion of this Court, and that the plaintiff recover against the defendant, his Costs in this behalf expended &c which is ordered to be Certified to the said Court.

The Honorable John D. Cook appeared and took his seat —

John Callaway
versus
Jacob Mifang } On writ of error 13

The parties by their attorneys came, whereupon the record and proceedings aforesaid, and the judgment given in form aforesaid, being seen, and the matters for error therein being joined heard and argued, the Court will thereof advise &c.

Thomas W. Graves and Samuel Ravenscraft administrators of Levi McColulan deceased
versus
John Kiler } On writ of error 14

Alexander Buckner esquire comes and enters his appearance for the defendant in error in this cause —

John C. Harbison
versus
Morgan Byrne } The plaintiff by Alexander Buckner his attorney came here into Court and moved for a Mandamus, directed to the Circuit Court of the County of Cape Girardeau, commanding the said Court to grant an appeal in this case; the Court the Court not being sufficiently advised of and concerning the premises, took time to consider of the same &c. — 27

Smith Moseley
versus
15 William S Gantt } on writ of error

The plaintiff by his attorney came, and permits his suit to be discontinued, Therefore it is Considered by the Court that the defendant recover of the plaintiff his Costs in this behalf expended &c

John L Davis
16 versus } on writ of error
Andrew Burns, Robert Patterson and Robert Morrison

The parties by their attornies Came, and the matters for error herein being joined, this Cause was submitted to the Court, and the Court not being sufficiently advised of and Concerning the premises, will Consider of the same &c. The Honorable John D. Cook withdrew from the Bench - haveing been Counsel in the Court below

George Northcut } on writ of error
17 versus
John Thompson and James Thompson administrators of John Thompson deceased

The parties by their attornies came, and the defendants moved the Court to Quash the writ of error in this Cause, on reasons filed, the Court will thereupon advise &c

John Brown and Linus Priest bail &c
Versus
Thomas H Benton Surviving partner &c 22

The parties by their attornies came where-upon the record and proceedings aforesaid and the Judgment given in form aforesaid, being seen, and the matters for error therein, being joined heard and argued, the Court will there-upon advise &c —

Whereupon the Supreme Court adjourned until tomorrow Morning Nine O'Clock —
Teste P.H. Garrett Clk

On Saturday the Sixth day of the term and first day of June in the year One thousand eight hundred and twenty two, the Supreme Court Met pursuant to adjournment

Present The Honble Mathias McGirk
The Honble John D. Cook and
The Honble John Rice Jones
The Judges of the said Court

Thomas W Evans and Samuel Ravencraft administrators of Levi Wolverton deceased 44
Versus
John Birch } on writ of error

The parties by their attornies came, and the Court being now sufficiently advised of and Concerning the Motion heretofore made to quash the writ of error in this Cause — are of Opinion that the Motion be Overruled, and having also inspected the record and proceedings therein, they are of Opinion that the Judgment of the Circuit Court be Reversed, that the cause be remanded to the Court from whence it came there to be tried anew, and that the plaintiffs do recover against the defendant their Costs in this behalf expended, which is ordered to be Certified to the said Court &c —

John C Harbeson
27 versus
Morgan Byrne

The Court being now Sufficiently advised of and concerning the Motion, heretofore made in this Case, for a writ of Mandamus directed to the Circuit Court of the County of Cape Girardeau Commanding him to grant an appeal; are of Opinion that the Motion be Overruled &c —

John Callaway
13 versus on writ of error
Jacob Miſang

The parties by their attornies Came and the Court now being sufficiently advised of and concerning the premises, and having inspected the record and proceedings herein, are of Opinion that the writ of error in this Cause be dismissed, and that the defendant recover against the plaintiff his Costs in this behalf expended &c —

George Stothart on writ of error
17 versus
John Thompson and James Thompson administrators of John Thompson deceased

The Court now being sufficiently advised of and Concerning the premises and having inspected the record and proceedings herein Are of Opinion that the writ of error in this Cause be dismissed, and that the defendants recover against the plaintiff their Costs in this behalf expended &c —

Thomas W Graves and Samuel Ravenscraft administrators of Levi Wolverton deceased
versus
John Riler } on writ of error 19

The parties by their attornies Came, and the Matters for error herein being joined, this Cause was submitted to the Court, and the Court not being sufficiently advised of and Concerning the premises, took time to Consider of the same &c

John Whittinburgh
versus
Henry Whittinburgh } on writ of error 20

The parties by their attornies Came whereupon the record and proceedings aforesaid and the Judgment given in form aforesaid and the Matters for error being seen, joined, [illegible], the Court will thereupon advise &c — The Honorable John D. Cook withdrew having been of Counsel below

Daniel J. Steinbeck
versus
Mary Lisa Executrix and Charles S. Hempstead Executor of Manuel Lisa deceased } on writ of error 23

The parties by their attornies Came, whereupon the record and proceedings aforesaid and the Judgment given in form aforesaid being seen, and the Matters for error therein being joined, heard and argued, the Court will thereupon advise &c —

John Whittenburgh
versus
Henry Whittenburgh } an writ of Error.

20 The Court now being sufficiently advised of and concerning the premises and having inspected the record and proceedings herein, for that manifest error appears therein, — Therefore it is considered by the Court here, that the said judgment be Reversed, and set aside, and that the plaintiff recover against the defendant his costs in this behalf expended, ~~which is ordered to be certified to the said Court &c~~

John Brown & Zenas Priest
versus } an writ of error
Thomas H Benton surviving partner &c

22 The parties by their attornies came, and the Court now being sufficiently advised of and concerning the premises, it appears that there is error in the rendition of the Judgment aforesaid — therefore it is considered by the Court here, that the Judgment of the Circuit Court aforesaid be reversed, and that the plaintiffs recover against the defendant their costs in this behalf expended, ~~which is ordered to be certified to the said Court &c~~

The last line in the last entry and half of the preceding is ordered
to be erased by the Court also the two last lines and a part of one preceding
in the first entry — Mathias McGirk President

Thomas W Graves and Samuel Ravins
craft administrators of Levi Wolverton decd
versus
John Kelee } an writ of error 19

The Court now being suffici
ently advised of and upon the premises
&c it appears that there is no error in
the rendition of the Judgment aforesaid
Therefore it is Considered by the Court
here, that the Judgment aforesaid in
all things aforesaid be affirmed, and
that the defendant recover against
the plaintiffs his Costs in this behalf
expended &c, and that he have Execution ~~which is ordered to be~~
thereof &c ~~certified to the said Court &c &c~~

John Davis
versus } an writ of error
Andrew Burns Robert Patterson and 16
Robert Morrison

The Court not yet being suf
ficiently advised of and Concerning the
will take further time to Consider of
the Same

Thomas F. Steinbeck
versus } on writ of error
Mary Lisa Executrix and Charles S
Hempstead Executor of Manuel 23
Lisa deceased —

The Court now being sufficien
tly advised of and Concerning the premises
and having inspected the record

The last line in the first entry and part of the One preceding
Ordered to be erased & an interlineation of nine words
M McGirk President

and proceedings herein, it appears that there is manifest error in the rendition of the Judgment aforesaid Therefore it is considered by the Court here, that the Judgment of the Circuit aforesaid be reversed, and that the plaintiff recover against the defendants his Costs in this behalf expended &c ~~what which is ordered to be certified to the said County~~

George W. Ferguson
versus } on writ of error
24 Joseph Frizell, Johnson Ranney William Neely and Anthony B Neely Executors of Joseph Seawell deceased

The parties by their attornies came, and by their Consent this cause is continued ~~until the next term of this Court~~

The seal of the Supreme Court for the fourth Judicial District of the State of Missouri being here inspected by the Court, the same was by the Court accepted &c

It appearing by an account filed that Thirty dollars is due to John Hays Sheriff of Cape Girardeau County for attending the Supreme Court and furnishing Stationary, fuel &c ~~Ordered by the Court that the same shall be paid out of the State Treasury~~

The last line in the first entry and a part of the one preceding ordered to be erased by the Court also the two last lines in the last entry

M McGirk president

Daniel J. Steinbeck
versus } on writ of error
Mary Lisa Executrix and Charles S. Hempstead
Executor of Manuel Lisa deceased 23 —

The Court proceeding in this case to give such judgment as the Court below ought to have given do consider and adjudge that the plaintiffs Lisa and Hempstead do have and recover of the defendant Steinbeck the sum one thousand five hundred twenty eight dollars and ninety five cents ~~and~~ to the use of William Morrison, and that they have execution thereof &c

Memorandum — this Record Book contains eighteen pages of the judgments and orders of the Supreme Court, beginning with page one hundred and seventy nine and ending with page one hundred and ninety six — of the term of May eighteen hundred and twenty two —

Mathias McGirk President

Whereupon the Supreme Court adjourned until the next term &

Peter R. Garrett Clk

Record of the Decrees, Orders, Judgments and Proceedings of the Supreme Court of the State of Missouri, Holden for the fourth Judicial District of said State, at the Town of Jackson, in the County of Cape Girardeau, at the Term of November in the Year of our Lord One thousand eight hundred and twenty two.

On the fourth Monday of November in the Year aforesaid (The first day of said Term, and twenty fifth day of the month) The said Supreme Court was held as aforesaid, before
The Honourable Mathias McGirk Esquire
The Honourable John D. Cook Esquire
and The Honourable John Rice Jones Esquire
Judges of said Supreme Court.

This day came [illegible] Thomas [illegible] by [illegible] of his [illegible] and [illegible] of the Court.

35 Jacob [illegible] [illegible] in Error.

The [illegible] by their [illegible] and [illegible] this cause is continued [illegible].

36 [illegible] Edwards [illegible] [illegible] appellee [illegible]
Henry Dodge [illegible] Michael [illegible]
The [illegible] and this cause is [illegible].

[illegible] } [illegible]
[illegible] Harman }
The [illegible]

Monday 25 November 1822 ... 5th day.

to be [illegible] done. Therefore it is considered by the Court that he take nothing by his writ, and that the defendant recover against the plaintiff his costs and charges by him about his defence in this behalf expended.

Joseph [illegible] } Debt in Error.
vs
Francis Nicholls

The plaintiff by his attorney comes and says that he will not further prosecute his suit. Therefore it is considered by the court that the defendant recover against the plaintiff his costs and charges by him about his defence in this behalf expended.

George W. Ferguson } [illegible] Error
vs
Joseph [illegible], Simeon [illegible], William Neely and Anthony H. Neely executors of Joseph [illegible] deceased.

The parties by their attorneys come, whereupon the Record and proceedings aforesaid, and the Judgment upon the same aforesaid being seen, and the matters therein assigned for error heard and argued, the Court will therefore advise. 24

Samuel Anthony } [illegible] in Error
vs
William Walters 21

The parties by their attorneys come, whereupon the Record and proceedings aforesaid and the Judgment aforesaid, and the matters therein assigned for error being fully heard and argued, the Court will advise.

Thomas A. [illegible] } [illegible] in Error
vs
[illegible] and [illegible]

Monday 25. November 1822 5th day.

The parties by their Attornies came, Whereupon The Record and Proceedings aforesaid, and the Judgment given in form aforesaid, being seen, and the matters for error therein, being joined heard and argued, The court will thereupon advise.

40 James Clemens Jun. Surviving partner of the firm of James Clemens Jun. and John W. Clifford

versus

William Morrison.

The plaintiff by his attorney came, and moved for a Rule against the Clerk of the Circuit Court for the County of Ste Genevieve, to show cause why the Record and writ of error in this cause, has not been sent up to this court. Whereupon, It is considered by the Court that, the Clerk of said Court do make out a certified copy of the Record and process of the plaint aforesaid with all things concerning the same, Returnable to the next Term of this court. — and that he be served with a copy of the Rule.

63 versus

Polly Patterson by her next friend Joseph Patterson.

The parties by their Attornies came, and it being manifest that there is Diminution of Record in this case, the Clerk of the Circuit Court for the County of Wayne, having sent up papers, which purport to be the original papers in this suit, and which ought not to have been sent up to this Court, (Original Declaration, Summons, Sheriffs Return, amended Declaration, four Affidavits, Two pleas, a bill of Exceptions, and a certified Transcript of the proceedings had in said court). Whereupon, It is Ordered that said papers and Transcript be delivered

Monday 25 November 1822, 5th day

to the Judge of the Circuit Courts of the Fourth Judicial District, to be by him transmitted to the said Clerk of the Circuit Court of Wayne County, again by him to be deposited in the Archives of said Court. And it is further Ordered that said Clerk make out a certified copy of the Record and Process of the plaint aforesaid, with all things concerning the same, Returnable to the next Term of this Court — It is further Ordered, that the Clerk of said Circuit Court of Wayne County be served with a copy of this Rule.

Johnson Ranney Esquire, came and presented the petition of Tubal C. Strange, a prisoner committed and detained, in the Jail of the County of Cape Girardeau, for Debt, &) Whereupon a writ of Habeas Corpus directed to the Sheriff of said County, returnable, at [illegible] and Granted

Whereupon the Supreme Court adjourned to Ten O'clock To morrow morning)

(Test
Clerk Wm. Jimmo Thomas
Deputy Clerk)

204.

[illegible]

[illegible]

[illegible] (Seal) [illegible]

[illegible]

[illegible] 16

[illegible]

[illegible] 21

[illegible]

of this proceedings [illegible] the [illegible]

[illegible] this cause accordingly [illegible]

[illegible]

Tuesday 26 November 1822 [illegible]

19 George W. [illegible] Kearny [illegible] Smith [illegible]

24 [illegible] being [illegible] sufficiently [illegible] of [illegible] Prisoner [illegible] the Judge [illegible] said [illegible]

[illegible] Together [illegible]

[illegible] of the said [illegible]

30 [illegible]

[illegible] November 18[illegible], [illegible]day

being [illegible] produced [illegible] 20
[illegible] the said [illegible]
and the [illegible]
[illegible] having [illegible] the [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
the [illegible]
annulled and altogether held for nothing; That a
new trial of this cause be awarded, and the [illegible]
[illegible] the said [illegible] with all [illegible]
and determination of this Court for [illegible]
to be had in this cause accordingly, and that the
[illegible] Defendant [illegible] costs in this
behalf expended.

[illegible] 10

[illegible]
the Admiralty [illegible]
[illegible]
[illegible]

[illegible] 11

[illegible]
the [illegible]
[illegible]
[illegible]
[illegible]

Tuesday [illegible] November 1823. [illegible] day

John Le Harbour } On writ of error
versus
Morgan Bryne

27 The parties by their attorneys came, and the plaintiff moved to dismiss the writ of Error by him sued out. Whereupon it is considered by the court that the writ of Error be dismissed and that the defendant do recover against the plaintiff his costs in this behalf expended.

[illegible] Ellis } Debt in error
versus
Louis Lorimier, Daniel F. Steinbeck, Victoire Lorimier,
28 and Thomas Jefferson Rodney and Polly Rodney.
The parties by their Attorneys came, Whereupon the Record and proceedings aforesaid, and the Judgment given in form aforesaid being seen, and the matters for error therein being heard and argued, the Court will thereof advise.

[illegible] Ellis } Trespass in Error.
29 versus
Daniel F. Steinbeck, Louis Lorimier, Victoire Lorimier and Thomas Jefferson Rodney and Polly Rodney
The parties by their Attorneys came. Whereupon the Record and proceedings aforesaid, and the Judgment given in form aforesaid being seen, and the matters for error therein being assigned heard and argued, the Court will thereof advise.

[illegible] } Debt in Error.
32 versus
[illegible] and [illegible]
The parties by their Attorneys came, Whereupon the Record and proceedings aforesaid, and the Judgment given in form aforesaid being seen.

205

Tuesday 26th November 1822, [illegible]

And the matters [illegible] therein being [illegible] heard and argued, the Court will thereupon advise.

This day came Wm [illegible] Esq. Sheriff and returned the writ of [illegible] Corpus [illegible] [illegible] and [illegible] and the said [illegible] prisoner in Court, under the custody of the said Officer, [illegible] Sheriff [illegible] the said prisoner [illegible] of the prisoner and [illegible] of the said prisoner [illegible] of the witnesses, The Court having [illegible] this decision, are of opinion that the Prisoner be discharged [illegible] that said [illegible] ~~the [illegible] costs~~.

[illegible] Neil [illegible] } [illegible] — 25

[illegible]

The parties by their Attorneys [illegible] Whereupon [illegible] and proceedings aforesaid, and the [illegible] aforesaid being seen, and the [illegible] and also in giving the said proceedings aforesaid, [illegible] it is considered by the Court that the [illegible] and that the Plaintiff [illegible] and that the Defendant [illegible] his costs [illegible] Whereupon the [illegible]

Test [illegible] Jones [illegible]

Wednesday 27 November 1822 3rd Day

On Wednesday the third day of the term and twenty seventh day of the month, The Court met at ten o'clock in the morning pursuant to adjournment.

Present the Honble [illegible] McCork
the Honble [illegible] [illegible] [illegible] } Judges
And the Honble John [illegible] Jones

Charles B. Ellis } Pltff in Error.

28 versus

Louis Granier, Daniel W. [illegible], Nelson Granier and Thomas Jefferson Rodney and Polly Rodney

11 The Parties by their Attornies came, and the premises being now sufficiently advised of and perusing the premises, and the Record and proceedings aforesaid, and the Judgment given in form aforesaid being seen, and the matters for Error assigned and stated being heard and argued, and by the Court now carefully understood, and mature deliberation being thereupon had. It appears to the court here, That in the Record and proceedings aforesaid, and also in giving the Judgment aforesaid there is no manifest error in this, whereas the Record [illegible] [illegible] [illegible] [illegible] vitiated, therefore [illegible] [illegible] [illegible] [illegible] that the Judgment aforesaid [illegible] [illegible] [illegible] [illegible] [illegible] and also [illegible] [illegible] [illegible] [illegible] of this [illegible] [illegible] [illegible] the said [illegible] together with the [illegible] Dollars [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] his costs [illegible] [illegible] [illegible]

207.

Wednesday 27 November 18[illegible] 3rd day

Samuel [illegible]ckhardt
versus
Johann Georg Albrecht } Case [illegible]

The parties by their attorneys present, the jurors [illegible] and [illegible] 38

[illegible] being [illegible]

[illegible] with [illegible]

[illegible] } [illegible]

[illegible] the plaintiff by his [illegible]

[illegible] which [illegible]

[illegible] the Court [illegible]

[illegible] of [illegible] Plaintiff [illegible]

[illegible] Plaintiff [illegible]

[illegible] 4th day

On [illegible] the fourth day of the term [illegible] the Supreme Court met at ten o'clock in the morning pursuant to adjournment.
Present, The Honorable Matthias McGirk
The Honorable [illegible] } Judges
The Honorable [illegible]

Alexander [illegible] Plaintiff in error
32 versus
Joseph M. [illegible] defendants in error
[illegible] now [illegible] appears [illegible] judgment aforesaid. [illegible] Therefore it is [illegible] reversed, annulled and for nothing held [illegible]

[illegible]
37 versus
[illegible]
The [illegible]

209.

Thursday 28 November 18[illegible] 6th day

Court now here [illegible] said matters [illegible] Deliberation being thereupon had, it appears to the Court [illegible] in the record and proceedings [illegible], and in giving the Judgment aforesaid there is no error. Therefore it is considered by the Court that the Judgment aforesaid be in all things affirmed, and that the Defendant in error recover against the plaintiff in error [illegible] his costs [illegible].

[illegible] Plaintiff in error

versus

James Crawford, Robert Crawford and [illegible] 38

This day came the parties by their attorneys, and [illegible] the record [illegible] and [illegible] assigned, and the matters [illegible] argued and [illegible] the Court now here fully understood, and mature deliberation being thereupon had, it appears to the Court that in the Record and proceedings aforesaid, and in giving the Judgment aforesaid, there is manifest error, Therefore it is considered by the Court that the Judgment aforesaid be reversed, annulled and altogether held for nothing, That a new trial of the cause be awarded, and the same remanded to the said Circuit Court, Together with the opinion and determination of this Court, for proceedings there to be had in the same accordingly, and that the plaintiffs do recover against the defendants their costs in this suit expended.

Charles G. Ellis } Plaintiff in Error, 39

versus

Samuel F. Steinbeck, Louis Servenier, Nicholas [illegible] Thomas Jefferson Rodney and Polly Rodney

This day came the parties by their Attorneys, and the Court being sufficiently advised of and concerning the premises, Keeps the same under advisement till next Term, to which Term, this cause is continued

---

34 James Thompson } Scire facias
versus
Thomas [illegible] Administrator of George [illegible] deceased

The plaintiff by his Attorney comes, and [illegible] this suit to be Discontinued, therefore it is considered by the court that the Defendants do recover against the plaintiff his costs and charges in and about his defence in this behalf expended.

---

39 James Tennant impleaded with Thomas H. Tindall
versus
Israel Friend (for the use of John Scott)

The Plaintiff by his Attorney comes and [illegible] this suit to be discontinued, Therefore it is considered by the court that the Defendant recover against the Plaintiff his costs and charges in and about his Defence in this behalf expended

---

16 John Davis } Writ of Error.
versus
Andrew [illegible], Robert Patterson and Robert [illegible]

The parties by their Attornies came, and Judge Cooke having been concerned as counsel in this cause retired from the bench, Whereupon the Record and Proceedings aforesaid and the Judgment given in form aforesaid, being seen, And the matters [illegible] ~~Errors Assigned and Joinder being heard and~~ argued, and by the Court now being fully understood, And mature Deliberation being thereupon had

It appears to the court now here, That in the Record and Proceedings aforesaid, and also in giving the Judgment aforesaid, There is no error, Therefore, It is considered by the court that the Judgment aforesaid be in all Things affirmed, and that the Defendants do recover against the plaintiff, Their costs and charges in and about their Defence in this behalf expended.

State
versus
James Barlow } On charge of passing Counterfeit money.

The Court being now sufficiently advised of and concerning the premises, and from the evidence certified in the warrant of commitment to have been given by William Myers, Alexander Frazer and Andrew M. Ramsey, It appears to the court that there is reasonable grounds to believe that the prisoner hath passed a Counterfeit Bank bill knowing it to be counterfeit, in the County of Scott It is considered by the court that the Clerk of this court issue a mittimus directed to the Sheriff of this County commanding him to convey said prisoner to the Sheriff or Keeper of the Jail of Scott County, who is commanded to receive said prisoner and him safely keep until he be discharged by due course of Law.

Green M. Davis Circuit Attorney
versus
John Harp, Sheriff. 4

The parties by their Attorneys came, Whereupon the Record and Proceedings aforesaid, and the Judgment given in form aforesaid being seen, and the matters for error assigned and joined being heard and —

argued, and by the court now here fully understood and mature deliberation being thereupon had, It appears to the court now here that in the Record and Proceedings aforesaid, and also in giving the Judgment aforesaid there is no error. Therefore It is considered by the court, That the Judgment aforesaid be in all things affirmed, and that the Defendant do recover against the plaintiff his costs in and about his defence in this behalf expended.

38 Samuel Lockhart
versus
John Hays, Sheriff

The parties by their attornies came and the court being now sufficiently advised of and concerning the Premises, and the Record and Proceedings aforesaid, and the Judgment given in form aforesaid being seen and the matters for error assigned and Joined therein heard and argued, and by the court now here fully understood, and mature Deliberation being thereupon had, It appears to the court now here that in the Record and proceedings aforesaid and also in giving the Judgment aforesaid, There is manifest Error, Therefore It is considered by the court that the Judgment aforesaid be reversed, That a new trial of this cause be awarded, and the Same remanded to the said Circuit Court Together with the Decision and Determination of this court, for proceedings there to be had in this cause accordingly. And that the plaintiff do recover against the Defendant his costs in this suit expended.

Whereupon the Supreme Court adjourned until half past seven of the clock to morrow morning.

Test Cad. S. Thomas
C. S. C.

Friday November 29th 1822. 5th Day

On Friday the fifth day of the Term and twenty ninth day of the month, The Supreme Court met at half past nine Oclock in the morning pursuant to adjournment. Present

The Honorable Mathias McGirk
The Honorable John D. Cook } Judges
and The Honorable John Rice Jones

Thomas H. Benton Surviving Partner of James N. Henry and Thomas H. Benton } 42
versus
John Brown and James [illegible] Writ of [illegible]

The parties by their Attorneys come and the court not yet being sufficiently advised of and concerning the premises, The same is kept under advisement to next Term, to which Term this Cause is continued

It appearing by account filed that Twenty Dollars is due from this State to Peter K. Carroll for that amount by him paid for a Seal for this court, which ought to be allowed.

Henry Whittenberg
John Whittenberg } 20

The Appellants counsel comes into court and moves the court to grant the Execution issued in this case Returnable to the present Term, which motion is kept under advisement until next Term. It appearing that the Sheriff has in his hands Thirty seven Dollars forty five cents, received on this Execution, he is ordered to Retain the same in his hands until said motion be disposed of by the court.

Memorandum. This Record Book contains Seventeen Pages of the Judgments and Orders of the Supreme court Beginning with Page One hundred and ninety seven and ending with Page Two hundred and thirteen, of the Term of November Eighteen hundred and Twenty Two Mathias McGirk

Whereupon the Supreme Court adjourned Sine die

Test E. P. Thomas
Clerk.

Term of May 1823

Record of the Decrees, Judgments, Orders and proceedings of the Supreme Court of the State of Missouri held for the fourth Judicial District at the Town of Jackson in the County of Cape Girardeau, of the term of May in the year of our Lord one thousand eight hundred and tweny three

On the fourth Monday of May in the year aforesaid, the first day of said term and twenty sixth day of the month the said Supreme Court failing to be held the sheriff of the County of Cape Girardeau aforesaid adjourned said Supreme Court until Tomarrow

On tuesday the second day of the term and twenty seventh day of May in the year aforesaid the said Supreme Court still failing to be held the said Sheriff adjourned said Supreme Court until Tomorrow,

On wednesday the third day of the term and twenty eighth day of May in the year aforesaid, the said Supreme Court still failing to be held the said Sheriff adjourned said Supreme Court until Tomorrow

On Thursday the fourth day of the term and and twenty Ninth day of May in the year aforesaid the said Supreme Court still failing to be held the said sheriff adjourned said Supreme Court until Tomarrow

Teste

Peter, R Garrett Clk

On Friday the fifth day of the term and thirtieth day of May in the year aforesaid the said Supreme Court still failing to be held the said Sheriff adjourned said Supreme Court until Tomorrow ——

On Saturday the sixth day of the Term and thirty first day of the month of May in the year aforesaid, the said Supreme Court still failing to be held Peter R Garrett the Clerk of said Supreme Court adjourned said Supreme Court to the next term of said Supreme Court, the fourth Monday in November next, to which time the said next succeeding term thereof all Causes. Suits and proceſs now depending in said Supreme Court shall be and do stand Continued by virtue of an act of the General Aſsembly of the State of Miſsouri in Such Cases paſsed and provided —

Teste
Peter R Garrett
Clerk

Record of the Decrees, Orders, Judgments and proceedings, of the Supreme Court of the State of Missouri held for the fourth Judicial District of said State at the Town of Jackson in the County of Cape Girardeau of the term of November in the year of our Lord one thousand eight hundred and twenty three —

On the fourth monday of November in the year aforesaid the first day of said term and twenty fourth day of the month the said Supreme Court failing to be held the sheriff of the County of Cape Girardeau aforesaid, adjourned said Supreme Court until Tomorrow —

Teste
J. R. Garrett Clk.

Tuesday November 25th 1823. 2nd Day

On Tuesday the second day of the Term, and twenty fifth day of November in the year 1823, the Supreme Court met at nine O'Clock in the morning.

Present,

The Honorable Mathias McGirk Esquire and The Honorable Rufus Pettibone Esquire Judges of said Supreme Court.

Joseph Hughes
versus
James F. Perry and Jean St. Vinbardeau
} Case in Error. 11

The parties by their Attornies came; Whereupon the Record and proceedings aforesaid and the Judgment given in form aforesaid being seen, and the matters in Error therein being joined heard and argued, The Court will thereupon advise.

Charles G. Ellis
versus
Daniel S. Heinbeck, Louis Lemmer, Victor Lefaivre, Thomas Jefferson Rodney and Polly Rodney.
} Case in Error. 24

The parties by their Attornies came and the Record and Proceedings aforesaid, and the Judgment given in form aforesaid being seen, And the matters for error therein assigned being joined heard and argued, The Court will thereupon advise.

Tunstall Quarles Esquire came and presented a License from the Honorable John D. Cook one of the Judges of the Supreme Court authorising him to practise as attorney and Counsellor

Counsellor at law, whereupon he is admitted in this Court accordingly.

53 William [illegible] Appellant
versus
John Humphreys and
Others Appellees.
} Appeal in Chancery

The Appellees by their attorney come and move the court to dismiss the appeal in this case on reasons filed, which is kept under advisement by the Court.

54 Gustavus A. Reid, Joseph Reid, Nathaniel Reid, Hannah Fowler, Hezekiah [illegible] and Rachael his wife, Moses Reid, John Reid, Amasa Cowles and Electa his wife, John Garfield and Huldah his wife, Horace Garfield, Fanny Garfield, Eber Slater and Salome his wife, John Chadwick and [illegible] his wife, Milton Garfield, Solomon Garfield and Elijah Garfield Appellants } Appeal in Chancery
versus
David Hurd impleaded with Robert [illegible], appellees

The appellees by their Attorney come and move the Court to dismiss the appeal in this Case which is kept under advisement by the Court.

55 [illegible] G. [illegible] appellant
against
Henry Dunlap and Anthony [illegible] Appellees
} Appeal in Chancery

The Appellees by their Attorney come and move the Court to dismiss the appeal in this Case, which is kept under advisement by the Court

56

Susannah Ross Executrix and John [illegible] Ross Executors of the last will and Testament of Stephen Ross deceased
versus
David [illegible]
} Covenant in Error.

The plaintiffs by their attorney

Tuesday November 26th 2nd Day 1833

came and moved for a Rule against the Clerk of the Circuit Court for the County of New Madrid to shew cause why the Record and Writ of error have not been sent up in this cause. — Whereupon it is considered by the Court, that the Clerk of said Circuit Court make out a certified copy of the Record and Process of the Plaint aforesaid with all things concerning the same, returnable to the next Term of this Court, And that he be served with a copy of this Rule.

David Guffy and Catharine Guffy late Catharine Guthrey Executors of John Guthrey deceased impleaded with John Shrader Executor &c
versus 62
Daniel F. Steinbeck Administrator of Louis Laumier deceased.

The plaintiffs by their attorney come and move for a Rule against the Clerk of the County Court for the County of New Madrid, to shew cause why the Record and Writ of Error have not been sent up in this cause. Whereupon it is considered by the Court that the Clerk of said County Court make out a certified copy of the Record and Process of the Plaint aforesaid with all things concerning the same returnable to the next Term of this Court, And that he be served with a copy of this Rule.

David Guffy and Catharine Guffy late Catharine Guthrey Executors of John Guthrey deceased impleaded with John Shrader Executor &c
versus 63
Daniel F. Steinbeck Administrator of Louis Laumier deceased.

The Plaintiffs by their Attorney come and

Tuesday November 25th 2nd Day 1823

move for a Rule against the Clerk of the County Court for the County of New Madrid to shew cause why the Record and Writ of error have not been sent up in this cause — Whereupon It is considered by the Court that the Clerk of said County Court make out a certified copy of the Record and process of the Plaint aforesaid with all things concerning the same Returnable to the next Term of this Court And that he be served with a copy of this Rule —

66 Abel English
versus
John Scott } Debt in Error.

The parties by their attornies came and the Plaintiff moved the Court to award a Certiorari against the Clerk of the Circuit Court for the County of Cape Girardeau commanding him to certify a full Record in the above cause; to wit, 1st the Judgment on the first Demurrer 2nd the record excepted to by defendant in his last bill of exceptions, Whereupon by consent of the parties It is considered by the Court that said motion be sustained. On motion of the Plaintiff the Court allow him further time to file errors herein

Whereupon the Supreme
Court adjourned untill nine
O'Clock to morrow morning

Test:
T. R. Garrett Clerk
S. C. 1st Dist.

Wednesday November 26th 1823. 3rd day.

On Wednesday the third day of the Term and twenty sixth day of November in the year 1823, The Supreme Court met at nine O'Clock in the forenoon pursuant to adjournment.

Present
The Honorable Mathias McGirk Esquire
and
The Honorable Rufus Pettibone Esquire
Judges of the Said Supreme Court.

William Pirie appellant } Appeal in
against } Chancery 58
John Humphries Junior, Susannah Humphreys, Susan Myers, Solomon Myers, William Myers who defend by James Marches their guardian

The parties by their attornies Came and the Court being now sufficiently advised of and Concerning the motion heretofore made to dismiss this appeal, ~~[illegible]~~ are of opinion that the said motion be overruled.

Justinus A Reid, Joseph Reid, Nathaniel Reid Hannah Fowler, Hezekiah Merrick and Rachael his wife, Moore Reid, John Reid, Amasa Curtis and Electra his wife, John Garfield and Huldah his wife, Horace Garfield, Fanny Garfield, Eber Slater and Salome his wife, John Chadwick and Candis his wife, Milton Garfield, Solomon Garfield and Elijah Garfield Appellants 54
against } Appeal in Chancery
David Ward impleaded with Robert Cravens, Appellee.

The parties by their attornies Came and the Court being now sufficiently advised

Wednesday November 26th 1828. 3rd day

of and concerning the motion heretofore made to dismiss this appeal are of opinion that the said motion be overruled.

[illegible] Swaine appellant } Appeal in
against } Chancery
53 Henry Dunkley and Anthony Street appellees

The parties by their attornies came and the Court being now sufficiently advised of and concerning the motion heretofore made to dismiss this appeal, are of opinion that the said motion be overruled.

Joseph Hughes & [illegible] McClain } Error
11 against
James H. Long and Jean Mc [illegible] Hubardeau.

The parties by their attornies came and the Court being now sufficiently advised of and concerning the premises and having inspected the record and proceedings herein it appears that there is manifest error in the rendition of the judgment aforesaid. Therefore it is considered by the Court here that the judgment of the Circuit Court aforesaid be reversed annulled and altogether held for nothing, and that the plaintiff recover against the defendants his costs in this behalf expended. Thereupon, the Court proceeding in this case to give such judgment as the Court below ought to have given do order adjudge and decree that the said mortgage be foreclosed and that the premises therein mentioned be sold by the Sheriff of the County of Sainte Genevieve

Wednesday November 26th 1828. 3rd day

joined heard and argued, The Court will thereupon advise.

Walter Wilkinson and John Barnes
versus } Case in Error. 44
Jacob W. Miller

The Plaintiffs by their attorney Come and permit their suit to be discontinued. Therefore It is considered by the Court that the Defendant have and recover of and from the Plaintiffs his Costs and Charges in and about his defence in this behalf expended &c.

William Russell
versus } Supersedeas in Error. 45
Joseph Thorn and Benjamin Carpenter

The parties by their attornies Came and the Record and proceedings aforesaid and the Judgment given in form aforesaid being read, and the matters for error therein assigned being joined heard and argued The Court will thereupon advise.

Robert English
versus } Debt in Error. 66
John Scott.

The parties by their attornies Came and the defendant moved the Court to vacate annul and dismiss the Supersedeas in this case granted and the order therefor, The Court having Considered of the premises will thereupon advise.

Wednesday November 26th 1845. 3rd day

James Clemens Junior, Surviving partner of the firm of James Clemens Junior and John D. Clifford
versus
40 William Morrison
in Error.

The parties by their attornies come and the defendant moves the Court to dismiss the writ of error herein, The Court having considered of the premises will thereupon advise.

Henry Whittenburgh
versus
20 John Whittenburgh
Motion.

Henry Whittenburgh by his attorney comes and moves the Court to quash the writ of Execution herein against him issued, The Court having considered of the premises will thereupon advise.

Whereupon the Supreme Court adjourned until nine O'Clock To morrow Morning

Test
P.R. Garrett Clk S.C. 4th J.D.

On Thursday the fourth day of the term and and twenty seventh day of November 1823 the Supreme Court met at nine OClock in the morning pursuant to adjournment

Present

The Honorable Mathias McGirk Esquire
and
The Honorable Rufus Pettibone Esquire
Judges of the said Supreme Court

William Russell } Trespass in Error
versus } 45
Joseph Thorn and Benjamin Carpenter

The parties by their attornies came and the Court being now sufficiently advised of and concerning the premises and the Record and proceedings aforesaid and the Judgment given in form aforesaid being seen, and the matters for error assigned and joined being heard and argued, and by the Court now here fully understood and mature deliberation being thereupon had, It appears to the Court now here that in the Record and proceedings aforesaid and also in giving the Judgment aforesaid, there is manifest error; Therefore It is Considered by the Court that the Judgment aforesaid be reversed annulled and altogether held for nothing, That a new Trial of this Cause be awarded and the same remanded to the said Circuit Court together with the decision and determination of this Court for proceedings there to be had in this Cause accordingly; And that the plaintiff recover of and from the Defendants his Costs and Charges in and about the prosecuting his writ of error in this behalf expended, &c.

1823, Thursday November 27th 4th day

43 Matthew Hubble } Case Slander
versus } in Error.
Sally Patterson by her next friend Joseph Patterson.

The parties by their attornies came and the Court being now sufficiently advised of and concerning the premises and the Record and proceedings aforesaid and the Judgment given in form aforesaid being seen, and the matters for Error assigned and joined being heard and argued and by the Court now here fully understood and mature deliberation being thereupon had, It appears to the Court now here that in the Record and Proceedings aforesaid and also in giving the Judgment aforesaid there is manifest error, Therefore It is Considered by the Court that the Judgment aforesaid be reversed annulled and altogether held for nothing That a new trial of this Cause be awarded, and the same remanded to the said Circuit Court together with the decision and determination of this Court for proceedings there to be had in this Cause accordingly And that the Plaintiff recover of and from the Defendant his Costs and Charges in and about the prosecuting his writ of error in this behalf expended &c.

42 Thomas H. Benton surviving partner of Samuel & Hammond and Thomas H. Benton, } Debt in Error.
versus }
John Brown and Zenas Priest bail of Jubal E. Strange

The parties by their attornies came and the Record and the Record and proceedings aforesaid and the Judgment given in form aforesaid being seen, and the matters

1823 Thursday November 27th 4th Day

for error assigned and joined being heard and argued, and by the Court now here fully understood and mature deliberation being thereupon had, It appears to the Court now here that in the Record and proceedings aforesaid, and also in giving the Judgment aforesaid there is manifest error; Therefore It is considered by the Court that the Judgment aforesaid be reversed annulled and altogether held for nothing and that the plaintiff have and recover of and from the defendants his Costs and Charges in and about the prosecuting his writ of error in this behalf expended &c. Whereupon the Court proceeding in this Case to give such Judgment in this Case as the Court below ought to have given, Do consider order and adjudge that the plaintiff have and recover of and from the defendants the sum of four hundred and thirty three dollars and eighty five cents in damages and also his costs in this behalf in the Circuit Court expended &c.

Joel Childress
versus
Michael Yoza } Replevin in Error 35

The parties by their attorneys came and the Court being now sufficiently advised of and concerning the premises, and the Record and proceedings aforesaid and the Judgment given in form aforesaid being seen, and the matters for error assigned and joined being heard and argued, and mature deliberation being thereupon had, It appears to the Court now here that in the Record and proceedings aforesaid, and also in giving the Judgment aforesaid, there is no error; Therefore it is considered by the Court that the Judgment aforesaid be in all things affirmed and that the defendant

1823 Thursday November 27th 4th Day

have and recover of and from the Plaintiff his Costs and Charges in and about his defence in this behalf expended &c.

46 John Morgan
versus } Debt in Error.
Elinor Haggard

The parties by their attornies came and the Record and proceedings aforesaid and the Judgment given in form aforesaid being seen and the matters for error assigned therein being joined heard and argued, the Court will thereupon advise.

Thomas C. Powell, } Trover in Error.
47 versus
Benjamin Tilly and Fergus Anderson

The plaintiff by his attorney comes and permits his suit to be discontinued Therefore it is considered by the Court that the Defendants do recover against the Plaintiff their Costs and Charges in and about their defence in this behalf expended &c.

John P. Cabanne and Antoine Soulard Executors of the last will and Testament of Jacques Clamorgan deceased
48 versus } Covenant in Error
Charles A. Lavallee administrator with the will annexed of John Lavallee deceased

The parties by their attornies came, and the Record and proceedings aforesaid, and the Judgment given in form aforesaid being seen, and the matters for error assigned therein being joined heard and argued, The Court will thereupon advise.

1823 Thursday November 27th 4th Day

the Judgment given in form aforesaid being seen and the matters for error therein assigned being joined heard and argued, The Court will thereupon advise -

James Clemens Junior Surviving Partner of the firm of James Clemens Junior and John D. Clifford
versus
William Morrison } In Error 40

The parties by their attornies came and the Court being now sufficiently advised of and concerning the motion heretofore made to dismiss the writ of error herein, Do consider and adjudge that said motion be sustained, said Writ of error dismissed, and that the Defendant do recover against the Plaintiff his costs and charges in and about his defence in this behalf expended &c.

Robert English
versus
John Scott } Writ in Error. 66

The parties by their attornies came and the Court being now sufficiently advised of and concerning the motion heretofore made to revoke annul and dismiss the Supersedeas in this case granted and Order therefore, Do consider and adjudge that said motion be sustained, and said Supersedeas and Order revoked annulled and dismissed.

1823 Thursday November 27th 4th Day

William Thompson Administrator of John Whullenburgh deceased
52 versus } In Error.
James Smith and John C. Houts

The parties by their attornies came and the defendants moved to dismiss the writ of Error herein, on reasons filed, which motion being heard and argued is kept under advisement by the Court.

Whereupon the Supreme Court adjourned until nine O'Clock To morrow morning

Test

Clerk S C D L & S D Dist.

1823. Friday November 28 5th Day

On Friday the fifth day of the Term and twenty eighth day of November in the year 1823, The Supreme Court met at nine O'Clock in the forenoon pursuant to adjournment.

Present The Honorable Mathias McGirk Esquire and The Honorable Rufus Pettibone Esquire Judges of said Supreme Court

John P Cabanne and Antoine Soulard Executors of the last will and Testament of Jacques Clamorgan Deceased } Plaintiffs in Error. 48
versus
Charles A Lavalle Administrator with the will annexed of John Lavalle deceased.

The parties by their attornies Came and the Court being now sufficiently advised of and Concerning the premises and the Record and proceedings aforesaid, and the Judgment given in form aforesaid being seen, and the matters for error assigned and joined being heard and argued, and by the Court now here fully understood and mature deliberation being thereupon had, It appears to the Court now here that in the Record and proceedings aforesaid and also in giving the Judgment aforesaid, there is manifest error, Wherefore, It is considered by the Court now here, that the Judgment aforesaid, for the errors aforesaid be reversed annulled and altogether held for nothing &c and that the plaintiffs recover of and from the defendant his Costs and Charges in this behalf expended [illegible] in and about the prosecuting their writ of error, and the Court proceeding to give such Judgment in this

Case as the Court below ought to have given, We give a Judgment of non pross against the Plaintiffs and that the Defendant have and recover of and from the plaintiffs the Costs in the Court below expended &c.

Charles J. Ramsey Surviving Executor of James Brady Deceased
51 versus
John Walker Administrator of Aquila Walker Deceased

The parties by their attornies came and the Record and proceedings aforesaid and the Judgment given in form aforesaid being seen and the matters for error assigned and joined being heard and argued, and by the Court now here fully understood and mature deliberation being thereupon had It appears to the Court now here that in the Record and proceedings aforesaid, and also in giving the Judgment aforesaid, There is no Error, Therefore It is Considered by the Court now here that the Judgment aforesaid be in all things affirmed, and that the Defendant have and recover of and from the Plaintiff his Costs and Charges in and about his defence in this behalf expended &c.

James Brown } Trespass
55 versus } in
Robert Ravenscroft } Error.

The parties by their attornies came and the Court being now sufficiently advised of and Concerning the premises and the Record and proceedings aforesaid and the Judgment

Given

Friday November 28th 5th Day

given in form aforesaid being seen and the matters for error assigned and joined being heard and argued, and now here by the Court fully understood and mature deliberation being thereupon had, It appears to the Court now here that in the Record and proceedings aforesaid, and also in giving the Judgment aforesaid there is manifest error. **Wherefore**, It is Considered by the Court that the Judgment aforesaid for the error aforesaid, be reversed annulled and altogether held for nothing, That a new Trial of this Cause be awarded and the same remanded to the said Circuit Court together with the decision and determination of this Court for proceedings there to be had in this Cause accordingly, and that the Plaintiff have and recover of and from the Defendant his Costs and Charges in and about the prosecuting his writ of error in this behalf expended &c

Gustavus A Bird, Joseph Bird, Nathaniel Bird Hannah Fowler, Hezekiah Herrick and Rachael his wife, Moore Bird, John Bird, Amasa Curtis and Electra his wife, John Garfield and Huldah his wife, Horace Garfield, Nancy Garfield Eber Slater and Salome his wife, John Chadwick and Candis his wife, Milton Garfield Solomon Garfield and Elijah Garfield Appellants } Appeal in
against } Chancery. 54
David Bird (impleaded with Robert Travers) appellee.

The parties by their Solicitors came and the Court being now suf

Friday November 28th 5th Day

ficiently advised of and concerning the premises and the Record and proceedings aforesaid, and the Decree entered in form aforesaid being seen, and the matters for error assigned and joined being heard and argued and by the Court now here fully understood and mature deliberation being thereupon had, It appears to the Court now here that in the Record and Proceedings aforesaid, and also in entering the Decree aforesaid, there is manifest error; Therefore It is considered by the Court that the Decree aforesaid be reversed annulled and altogether held for nothing, That a new trial of this Cause be awarded and the same remanded to the said Circuit Court together with the decision and determination of this Court, for proceedings there to be had in this Cause accordingly and that the appellants have and recover of and from the appellee their Costs and Charges in this behalf expended &c.

49 John Logan
versus
Ezekiel Fenwick } in Error.

The parties by their attornies came and the Court being now sufficiently advised of and concerning the premises, and the Record and proceedings aforesaid and the Judgment given in form aforesaid being seen, and the matters for error assigned and joined being heard and argued and by the Court now here fully understood and mature deliberation being thereupon had, It appears to the Court now here that in the Record and proceedings aforesaid and also in giving the Judgment aforesaid

there

1823 Friday November 28th 5th Day

There is manifest error, Therefore It is considered by the Court now here that the Judgment aforesaid for the Error aforesaid be reversed annulled and altogether held for nothing, That a new Trial of this Cause be awarded and the same remanded to the said Circuit Court, together with the decision and determination of this Court, for proceedings there to be had in this Cause accordingly, and that the plaintiff have and recover of and from the defendant his Costs and Charges in and about the prosecuting his writ of error in this behalf expended &c. & that he be restored to all things lost by reason of the said Judgment &c.

Charles T Ramsey Surviving Executor of James Brady deceased appellant against Charles G. Ellis appellee } Appeal in Chancery 50

The parties by their attornies came and the Record and proceedings aforesaid and the Decree entered in form aforesaid being seen, and the matters for error assigned and joined being heard and argued, and by the Court now here fully understood, and mature deliberation being thereupon had, It appears to the Court now here that in the Record and Proceedings aforesaid and also in entering the Decree aforesaid there is manifest error, Therefore It is considered by the Court that the Decree aforesaid, for the error aforesaid, be reversed annulled and altogether held for nothing and that the appellant have and recover of and from the appellee his costs and Charges in this behalf in this Court expended, and this Court proceeding to give such decree as the Court below ought to have given

1823 Friday November 28th 34th Day

Do consider order adjudge and decree that the Complainants bill be dismissed and that the appellant have and recover of and from the appellee his Costs and Charges in the Circuit Court aforesaid expended &c

John Morgan
40 versus } Debt in Error
Elinor Taggart }

The parties by their attornies came and the Court being now sufficiently advised of and concerning the premises, and the Record and Proceedings aforesaid, and the Judgment given in form aforesaid being seen, and the matters for error assigned and joined being heard and argued, and by the Court now here fully understood, and mature deliberation being thereupon had, It appears to the Court now here that in the Record and proceedings aforesaid, and also in giving the Judgment aforesaid there is no Error, Therefore It is considered by the Court now here that the said Judgment aforesaid be in all things affirmed, and that the Defendant have and recover of and from the Plaintiff her Costs and Charges in and about her defence in this behalf expended &c.

Rosannah Ross Executrix, and John H. Ross Executor of the last will and Testament of Stephen Ross Deceased. } Covenant
50 versus } in
David Hunter. } Error.

The parties by their attornies came and by their consent this Cause is continued to next Term.

1828 Friday November 28th 5th Day

Charles J Ramsey Surviving Executor of James Brady Deceased,
versus
John Waters, Charles G Ellis and Alfred P. Ellis } Replevin in Error.

The parties, by their attornies came and the Record and proceedings aforesaid and the Judgment given in form aforesaid, being seen and the matters for errors therein assigned being joined heard and argued The Court will thereupon advise

William Thompson Administrator of John Whittenburgh deceased
versus
James Smith and John C. Houts } in Error. 52

The parties by their attornies Came and the Court, being now sufficiently advised of and Concerning the motion heretofore made to dismiss the writ of error herein, are of opinion that said motion be sustained said writ of error dismissed, and that the defendants have and recover of and from the Plaintiff their Costs and Charges in and about their defence in this behalf expended to be made of the goods and Chattels of said deceased remaining in the hands of said Administrator to be administered

James Edmonds
versus
Henry Hand } Covenant in Error 68

The parties, by their attornies Came and the defendant moved the Court to dismiss this suit on reasons filed which motion is submitted to the Court who having Considered of the same will thereupon advise.

1823 Friday November 28th 3rd Day

70 James Edmonds
versus
Townsend Nichols } Trespass in Error.

The parties by their attornies came and the defendant moved the Court to dismiss this suit on reasons filed which motion is submitted to the Court who having considered of the same will thereupon advise.

69 James Edmonds
versus
Jacob Littleton } Trespass in Error.

The parties by their attornies came and the defendant moved the Court to dismiss this suit on reasons filed which motion is submitted to the Court who having considered of the same will thereupon advise.

66 Robert English
versus
John Scott } Debt in Error.

The Plaintiff by his attorney comes and moves the Court to grant him a Supersedeas herein and now here offers John Randel Junior as Security in the Recognizance, which motion is kept under advisement by the Court.

Whereupon the Supreme Court adjourned untill nine O'Clock to morrow morning

Test, Claiborne G. Thomas,
Depty Clk

1823 Saturday November 29th 6th Day

On Saturday the sixth day of the Term and twenty ninth day of November in the year 1823 The Supreme Court met at nine O'clock in the morning pursuant to adjournment.

Present,

The Honorable Mathias McGirk Esq

And

The Honorable Rufus Pettibone Esq

Judges of said Supreme Court,

James Edmonds
versus
Henry Hand } Covenant in Error. 68

The parties by their attornies came and the Court being now sufficiently advised of and concerning the premises Do consider and adjudge that the plaintiff file a bond with security for Costs on or before the fourth Monday in May next, or this Suit will be dismissed, and thereupon this Cause is continued to next Term.

James Edmonds
versus
Townsend Nichols } Trespass in Error. 70

The parties by their attornies came and the Court being now sufficiently advised of and concerning the premises Do consider and adjudge that the Plaintiff file a bond with security for Costs on or before the fourth Monday in May next, or this Suit will be dismissed, and thereupon this Cause is continued to next Term.

1828 Saturday November 29th 6th Day

James Edmonds
69 versus } Trespass in Error
Jacob Littleton

The parties by their attorneys came and the Court being now sufficiently advised of and concerning the premises, Do consider and adjudge that the Plaintiff file a bond with Security for Costs on or before the fourth Monday in May next, or this Suit will be dismissed; and thereupon this Cause is continued to next Term.

Estate of Walter } On petition of the Administrators
Fenwick Deceased. } for the Sale of lands.

The Administrators of said deceased by their attorney Nathaniel W. Watkins came and moved the Court for a Transcript of the proceedings herein to be made out and Certified to the Circuit Court of the County of Saint Genevieve &c and it appearing to the satisfaction of the Court that the Clerk of this Court hath omitted to make out and certify the same; It is therefore considered ordered decreed and directed by the Court here that the Clerk of this Court Do make a complete Transcript of the minutes and proceedings had in the aforesaid cause, and send the same together with all papers belonging thereto to the Clerk of the Circuit Court of the aforesaid County of Saint Genevieve:

George W. Kennerly by Nathaniel W. Watkins his attorney came and on his motion on affidavit filed, It is ordered that the County Court of Madison County be ruled to show cause at the next Term

of

1828 Saturday November 29th 6th Day.

this Court why a mandamus should not issue commanding them to reinstate the Case of William Isom against George H. Kennerly Administrator of John Young Deceased, and grant an appeal to the Circuit Court of Madison County.

William Lee appellant } Appeal in
against } Chancery — 58
John Humphries and others, appellees

The parties by their Solicitors came and the Record and proceedings aforesaid and the Decree entered in form aforesaid being seen, and the matters for error assigned therein being joined heard and argued The Court will thereupon advise

William Warren, Alexander Richards, Richard
Welch and Edward Welch } forcible entry and
versus } detainer in Error.
Robert Moore

The Plaintiffs by their attorney come and permit their Writ to be discontinued, Wherefore It is considered by the Court that the defendant have and recover of and from the Plaintiffs his Costs and Charges in and about his defence in this behalf expended.

Luke Mattingly }
versus } Ejectment in Error — 60
Sarah Hayden

The parties by their attornies came

1823 Saturday November 29th 6th Day

and by their Consent this Cause is continued to next Term.

Nathaniel Pope and John Scott
61 versus } in Error
John Hays late Sheriff of the County of Cape Girardeau

The parties by their attornies came and the Record and proceedings aforesaid and the Judgment given in form aforesaid being seen, and the matters for error assigned therein being joined heard and argued the same is submitted to the Court who having considered of the same will thereupon advise.

David Giffy and Catharine Giffy late Catharine Guething Executor of John Guething deceased impleaded with John
62 Shrader Executor } in error.
versus
Daniel F. Steinbeck Administrator of Louis Lorimier dec'd

The parties by their attornies came and the Court are of opinion that the writ of error herein be dismissed and that the defendant recover against the Plaintiffs his costs and charges in and about his defence in this behalf expended.

David Giffy and Catharine Giffy late Catharine Guething Executor of John Guething deceased impleaded with John Shrader
63 Executor } in error
versus
Daniel F. Steinbeck Administrator of Louis Lorimier deceased

The parties by their attornies came

1823 Saturday November 29th 6th Day

and the Court are of opinion that the writ of error herein be dismissed and that the Defendant have and recover of and from the Plaintiffs his Costs and Charges in and about his defence in this behalf expended &c.

Samuel Lockhart } 64
versus
John Brown.

The parties by their attornies Came and the Record and Proceedings aforesaid and the Judgment given in form aforesaid being seen, and the matters for error therein assigned being joined heard and argued, The Court will thereupon advise.

James H Overstreet and Gabriel Overstreet late partners in Trade doing business under stile and firm of J. H. and G Overstreet } 65
versus } Debt in error
William Shannon

The parties by their attornies came and by their consent this Cause is continued to next Term.

Robert English } 66
versus } Debt in Error
John Scott

The parties by their attornies came and the Record and proceedings aforesaid and the Judgment given in form aforesaid being seen and the matters for error assigned therein being joined heard and argued The Court will thereupon advise

Whereupon the Supreme Court adjourned untill nine O'Clock in the morning on Monday next

Test; Claiborne Linny Thomas
Depy Clerk

1823 Monday, December, 1st 7th Day =

On Monday the Seventh day of the Term and first day of December in the year 1823, The Supreme Court met at nine O'Clock in the morning pursuant to adjournment, Present,

The Honorable Mathias McGirk Esqr:
and the Honorable Rufus Pettibone Esq
Judges of said Supreme Court

Gerard G. Irwine appellant } Appeal in Chancery.
53 against
Henry Burnley and Anthony Wheat appellees

The parties by their Solicitors came and the Court being now sufficiently advised of and concerning the premises and the Record and proceedings aforesaid and the decree entered in form aforesaid being seen, and the matters for error assigned and joined being heard and argued and by the Court now here fully understood and mature deliberation being thereupon had, It appears to the Court now here that in the Record and Proceedings aforesaid and also in entering the Decree aforesaid there is no error, Therefore It is considered by the Court that the Judgment aforesaid be in all things affirmed, and that the appellees have and recover of and from the appellant their Costs and Charges in and about their defence in this behalf expended &c. and that they have Execution thereof &c.

Charles W Ramsey Surviving Executor of James Brady deceased } Replevin in Error.
57 versus
John Waters Charles G. Ellis and Alfred S. Ellis

The parties by their attorneys came and the Court being now sufficiently advised of and con-

concerning the premises and the Record and proceedings aforesaid and the Judgment in Form aforesaid given, being seen, and the matters for Error assigned and joined being heard and argued and by the Court now here fully understood and mature deliberation being thereupon had, It appears to the Court now here that in the Record and Proceedings aforesaid and also in giving the Judgment aforesaid There is no error, Therefore It is considered by the Court that the Judgment aforesaid be in all things affirmed and that the said Defendants have and recover of and from the Plaintiff their costs and Charges in and about their defence in this behalf expended, to be made of the goods and Chattels of said deceased remaining in the hands of said Executor to be administered and that they have execution thereof &c.

Robert English
versus } Debt in Error. 66
John Scott

The parties by their attornies came and the Court being now sufficiently advised of and concerning the premises, and the Record and proceedings aforesaid, and the Judgment given in form aforesaid being seen, and the matters for Error therein assigned and joined being heard and argued and by the Court now here fully understood and mature deliberation being thereupon had, It appears to the Court now here that in the Record and Proceedings aforesaid and also in giving the Judgment aforesaid there is manifest Error. Therefore, It is considered by the Court that the Judgment aforesaid be reversed annulled and altogether held for nothing, that a new Trial of

1823 (Monday December 1st 7th Day)

this Cause be awarded, and the same remanded to the said Circuit Court, together with the decision and determination of this Court, for proceedings there to be had in this cause accordingly, and that the plaintiff have and recover of and from the Defendant his Costs and Charges in and about the prosecuting his writ of error in this behalf expended &c. and that he have execution thereof &c.

Samuel Lockhart }
64 versus }
John Brown }

The parties by their attornies came and the Court being now sufficiently advised of and concerning the premises, and the Record and proceedings aforesaid, and the Judgment given in form aforesaid being seen, and the matters for error assigned and joined being heard and argued, and by the Court now here fully understood and mature deliberation being thereupon had, It appears to the Court now here that in the Record and Proceedings aforesaid, and also in giving the Judgment aforesaid, there is manifest Error, Therefore It is considered by the Court that the Judgment aforesaid be reversed annulled and altogether held for nothing and that the Plaintiff have and recover of and from the Defendant his Costs in the Court below and also his Costs in and about the prosecuting his writ of Error, in this behalf expended and that he have execution thereof &c.

William Lirie appellant } appeal in
58 versus } Chancery.
John Humphreys Junior, Susannah Humphreys, Susan Myers, Solomon Myers, William Myers who defend by James Macwilhen Guardian

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The parties by their Solicitors came and the Court being now sufficiently advised of and concerning the premises, and the Record and proceedings aforesaid, and the Decree entered in form aforesaid being seen, and the matters for Error assigned and joined being heard and argued, and mature deliberation being thereupon had, and the same being by the Court now here fully understood, It appears to the Court now here That in the Record and proceedings aforesaid and also in entering the decree aforesaid, there is manifest Error, Therefore, It is considered by the Court that the Decree aforesaid be in all things reversed annulled and altogether held for nothing, that the original bill herein in the Court below be dismissed, and that the appellees have and recover of and from the appellant their Costs in the Court below expended, and that they have Execution thereof &c. and it is further considered by the Court That the appellant have and recover of and from the appellees his costs in this behalf expended &c and that he have execution thereof &c

Uriah S. Cummins, Ninian Edwards, Joseph Phillips,
Charles S. Hempstead and William Morrison } Defts in Error
versus,
Henry Dodge for the Use of Michael Goza

36

The parties by their attornies came and the record and proceedings aforesaid, and the Judgment given in form aforesaid being seen, and the matters for Error assigned and joined being heard and argued, The Court keep the same under advisement untill the next Term of this Court, to which Term this Cause is continued.

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(The following motion was made on Yesterday and having been omitted to be then entered, is now entered "nunc pro tunc"

Estate of Walter Fenwick Deceased } On petition of the administrators for the Sale of Lands.

Nathaniel W. Watkins comes and moves the Court to receive the report of the Commissioners appointed by the Superior Court of the Territory of Missouri at their February Term 1820 to sell the Real property which motion was overruled by the Court on the ground that the Return ought to be made to the Circuit Court of the County of Sainte Genevieve.

Thomas Moseley, James M. Cropper, Jenifer T. Sprigg and Medad Randol } Debt in Error.
72 versus
Lewis Dixon

The parties by their attornies came and the Record and proceedings aforesaid and the Judgment given in form aforesaid being seen, and the matters for error assigned and joined are now here submitted to the Court, Who do (by consent of the parties) consider and adjudge that the Judgment aforesaid be in all things affirmed, and stand in full force, and that the defendant have and recover of and from the Plaintiffs his Costs in this behalf expended &c. And by consent of the parties here Execution of this Judgment is stayed for the time limited and set forth in the agreement of the parties now here filed.

Jenifer T. Sprigg
67 versus } Debt in Error.
Samuel H. Maulsby

The parties by their attornies Came and the Record and proceedings aforesaid and the

1823 Monday December 1st 7th Day

Judgment given in form aforesaid being seen, and the matters for error assigned being joined are now here submitted to the Court. Who etc (by consent of the parties) consider and adjudge that the Judgment aforesaid be in all things affirmed, and stand in full force, and that the defendant have and recover of and from the Plaintiff his Costs in this behalf expended &c. And by consent of the Parties here execution of this Judgment is stayed for the time limited and set forth in the agreement of the parties now here filed.

Roland Boyd, } Debt in Error. 10
versus
Sarah D. Sargeant who sues for the use of Archibald Morgan.

The parties by their attornies came and by their consent this Cause is continued to next Term.

Henry Whittenburgh }
versus 20
John Whittenburgh }

The parties by their Attornies came and the Court having fully considered of, and maturely deliberated upon the premises, do consider and adjudge that the writ of Execution issued herein be quashed, and that the defendant by the said writ of execution take nothing &c. And it is further Ordered that the Representatives of John Whittenburgh (since deceased) pay the said plaintiff Henry Whittenburgh the Sum of Sixty seven Dollars and ninety nine cents to be made of the goods and chattels of said deceased remaining in the hands of the administrator of said deceased to be administered, And further the Sheriff of the County of Cape Girardeau is Ordered to pay over to the Plaintiff Henry Whittenburgh the sum of thirty seven dollars and forty eight cents being the balance remaining in his hands of the money by him levied made and collected on the execution issued against the said Henry Whittenburgh herein,

George W. Ferguson, } Case
71 versus } in Error.
Joseph Frizel, Johnson Ranney, William Neely and Anthony S. Neely Executors of Joseph Seawell deceased.

The parties by their Attornies came and the Record and proceedings aforesaid, and the Judgment given in form aforesaid being seen, and the matters for Error assigned and joined being heard and argued, are now here submitted to the Court, who having considered of the same will thereupon advise.

Charles S. Ramsey Surviving Executor of James Brady, deceased, appellant } Appeal
50 versus } in
Charles G. Ellis, appellee. Chancery.

The appellee by his Solicitor came and presented his petition praying the Court to reconsider this Cause, which is now here filed and kept under advisement by the Court.

J. E. Strange and Zenas Priest }
73 versus }
Charles G. Ellis }

The parties by their attornies came and the Record and proceedings aforesaid, and the

1823 . Monday December 1st 7th Day

Judgment given in form aforesaid being seen, and the matters for error assigned and joined being heard and argued, The Court will thereupon advise.

J. E. Strange and Zenas Priest }
versus } 74
George H. Scripps.

The parties by their attornies Came and the Record and proceedings aforesaid and the judgment given in form aforesaid being seen, and the matters for error assigned therein, being joined heard and argued, The court will thereupon advise.

Andrew H. Ramsey } Covenant
versus } in Error. 75
John Walker assignee of Benjamin H. Edwards

The parties by their attornies Came and the Record and proceedings aforesaid and the judgment given in form aforesaid being seen, and the matters for error assigned therein being joined heard and argued The Court will thereupon advise.

James Tanner Surviving Plaintiff of James Tanner and Stephen Ross } Covenant
versus } in 76
Thomas Roberts } Error.

The parties by their attornies Came and the Record and proceedings aforesaid and the judgment given in form aforesaid being seen and the matters for error assigned therein

1823, Monday December 1st 7th Day

being joined, heard and argued, The Court will thereupon advise.

77 James Trotter and Wife Appellants } appeal
versus } in Chancery
Nancy Winchester and Others, appellees

The parties by their Solicitors came and the Record and proceedings aforesaid and the decree entered in form aforesaid being seen, and the matters for error assigned therein being joined are now here submitted to the Court who having considered of the same will thereupon advise.

78 Richard H. Waters Appellant } appeal in
versus } Chancery
Elizabeth Phillips Administratrix and Thomas Phillips Administrator of Samuel Phillips Deceased appellees

The Parties by their attornies came and the record and proceedings aforesaid and the decree entered in form aforesaid being seen, and the matters for error assigned therein being joined heard and argued The Court will thereupon advise.

Johnson Ranney attorney at Law, came and on his motion, it appearing to the satisfaction of the Court that the following executions have been issued from the office of the Clerk of this Court and that they have been received by the Sheriff of Madison County. 447. John Callaway and Others against The State of Missouri and John Calloway versus Jacob Nifong and Samuel [illegible] & W. C. Stephens and that said Sheriff has failed to return the said Executions agreeably to Law, Wherefore it is

1823 Monday December 1st 7th Day

Ordered that said Sheriff be ruled to appear at the next Term of this Court and Shew cause why an attachment should not issue against him for having failed to return said executions

Johnson Ranney attorney at law came and on his motion, It appearing to the satisfaction of this Court, That the following executions have been issued from the Office of the Clerk of this Court and that they have been received by the Sheriff of the County of New Madrid, viz: Francis Marion vs. B and J Pratte, Joseph Vandenbenden vs Francis Michells and James Tanner impleaded &c. vs. Israel Friend for use of &c. and James Brown vs Robert McCoy, and that said Sheriff has failed to return said executions agreeably to Law, Wherefore It is Ordered that said Sheriff be ruled to appear at the next Term of this Court and shew cause why an attachment should not issue against him for having failed to return said executions

Johnson Ranney attorney at law came and on his motion, It appearing to the satisfaction of the Court, That the following execution has been issued from the Office of the Clerk of this Court and that it has been received by the Sheriff of the County of Saint Louis viz; Brown and Priest vs Thomas H. Benton, and that said Sheriff has failed to return said execution agreeably to law; Wherefore It is Ordered that said Sheriff be ruled to appear at the next Term of this Court and

1823 . Monday December 1st 7th Day

Show cause why an attachment should not issue against him for having failed to return said Execution.

Johnson Ranney, attorney at law, came and on his motion, It appearing to the satisfaction of the Court, That the following execution has been issued from the Office of the Clerk of this Court and that it has been received by the Sheriff of the County of Sainte Genevieve, Viz. Michael Pilcher vs Henry Hill and Sebastian Pilcher, and that said Sheriff has failed to return said Execution, agreeably to law: Wherefore It is Ordered that said Sheriff be ruled to appear at the next Term of this Court and Shew cause why an attachment should not issue against him for having failed to return said Execution

Thomas H. Benton Surviving Partner of Isaac N. Henry and Thomas H. Benton } Debt in Error.
42 versus
John Brown and Zenus Priest bail of Tubal E. Strange.

The defendants by Johnson Ranney their attorney come and file their petition praying the Court to reconsider this Case, and that they may be permitted to plead to said Scire facias and have the same brought before a Jury of the County.

Whereupon The Supreme Court adjourned until nine O'Clock To morrow morning

Test,
Claiborne S. Thomas }
Deputy Clerk }

1823 Tuesday December 2, 8th Day

On Tuesday the eighth Day of the Term and Second day of December in the year 1823, The Supreme Court met at nine O'Clock in the morning pursuant to adjournment

Present,
The Honorable Mathias McGirk Esqr
and
The Honorable Rufus Pettibone Esqr
Judges of the said Supreme Court.

J. E. Strange and Zenas Priest
versus
Charles G. Ellis.

73

The parties by their attornies came and the Record and proceedings aforesaid and the Judgment in form aforesaid given being seen and the matters for error assigned and joined being heard and argued and by the Court now here fully understood and mature deliberation being thereupon had, It appears to the Court now here that in the Record and proceedings aforesaid and also in giving the Judgment aforesaid, There is manifest error, Wherefore It is considered by the Court that the Judgment aforesaid be in all things reversed annulled and altogether held for nothing &c. That a new Trial of this cause be awarded and the same remanded to the said Circuit Court together with the decision and determination of this Court for proceedings there to be had in this cause accordingly. and that the Plaintiffs have and recover of and from the Defendant their Costs and Charges in and about the prosecuting their writ of Error in this behalf expended and that they have execution thereof &c.

1823 Tuesday December 2nd. 8th. Day

T. E. Strange and Jonas Priest
74 versus
George W. Scripps.

The parties by their attornies came and the Court being now sufficiently advised of and concerning the premises, and the Record and proceedings aforesaid and the Judgment given in form aforesaid being seen and the matters for error assigned and joined being heard and argued, and by the Court now here fully understood and mature deliberation being thereupon had, It appears to the Court now here that in the Record and proceedings aforesaid and also in giving the Judgment aforesaid, there is manifest Error; Therefore, It is considered by the Court that the Judgment aforesaid for the Error aforesaid be reversed annulled and altogether held for nothing &c. That a new Trial of this Cause be awarded, and the same remanded to said Circuit Court together with the decision and determination of this Court for proceedings there to be had in this cause accordingly. And that the Plaintiffs have and recover of and from the defendants their Costs and Charges in and about the prosecuting their writ of error in this behalf expended and that they have execution thereof &c.

James Tanner Surviving Plaintiff of James Tanner and Stephen Ross
76 versus
Thomas Roberts

Covenant
in
Error.

The parties by their attornies came and the Court now being sufficiently advised of and concerning the premises, and the Record and proceedings aforesaid and the Judgment given in form aforesaid &

being seen, and the matters for error assigned and joined being heard and argued, and by the Court now here fully understood, and mature deliberation being thereupon had, It appears to the Court now here that in the Record and proceedings aforesaid, and also in giving the Judgment aforesaid, there is manifest error, Therefore It is considered by the Court that the Judgment aforesaid, for the Error aforesaid, be reversed, annulled and altogether held for nothing &c. That a new Trial of this Cause be awarded and the same remanded to the said Circuit Court, together with the decision and determination of this Court, for proceedings there to be had in this Cause accordingly and that the Plaintiff have and recover of and from the defendant his Costs and Charges in and about the prosecuting his writ of error in this behalf expended, and that he have execution thereof &c.

Charles S Ramsey Surviving Executor of James Brady Deceased, Appellant } Appeal
against } in
Charles F Ellis Appellee } Chancery 50

The parties by their Solicitors came and the Court being now sufficiently advised of and concerning the motion heretofore made to have this Cause reconsidered are of opinion that the same be overruled.

Thomas H Benton Surviving Partner of Isaac N. Henry and Thomas H. Benton, } Debt in
versus } Error. 42
John Brown and Zenas Priest Bail of Jubal E. Strange

The parties by their attornies came and the Court being now sufficiently advised

1823. Tuesday December 2nd 8th Day

of and concerning the motion heretofore made on petition filed to reconsider said cause and grant leave to said defendants to plead to said Scire Facias and have the same brought before a Jury of the Country, are of opinion that said motion be Overruled.

Andrew H. Ramsey } Covenant in Error.
75 versus
John Walker assignee of Benjamin H. Edwards

The parties by their attornies came and the Court being now sufficiently advised of and concerning the premises, and the Records and proceedings aforesaid, and the Judgment in form aforesaid given being seen, and the matters for Error assigned and joined being heard and argued, and by the Court now here fully understood, and mature deliberation being thereupon had, It appears to the Court now here That in the Record and proceedings aforesaid and also in giving the judgment aforesaid, There is manifest Error, Therefore, It is considered by the Court that the judgment aforesaid be in all things reversed annulled and altogether held for nothing &c and that the Plaintiff have and recover of and from the defendant his costs and Charges as well in the Court below as in and about his writ of Error in this behalf expended &c and that he have execution thereof &c.

Nathaniel Pope and John Scott } in Error
61 versus
John Hays late Sheriff of the County of Cape Girardeau

The parties by their attornies came and the Record and proceedings aforesaid and

1823 Tuesday December 2nd 8th Day

The Judgment given in form aforesaid being seen and the matters for error therein assigned being joined heard and argued, and the Court not being yet thereupon sufficiently advised Do continue the same under advisement untill the next Term of this Court, To which Term this Cause is continued

Betsey Trotter heir at Law &c appellant versus } Appeal in Chancery 77

James Duval and Polly his wife, John Winchester, Malinda Winchester, Nancy Winchester, Washington Orr and Patsey his wife, formerly Patsey Winchester, Peter Winchester, Isaac Winchester, Abigail Winchester, Henderson Winchester and William Winchester five last infants by Chr G. Houts by Guardian appointed &c. all heirs Devisees and legal Representatives of William Winchester supposed Testator deceased appellees.

The parties by their Solicitors came and the Court being now sufficiently advised of and concerning the premises and the decree entered in form aforesaid and the Record and proceedings aforesaid, being seen, and the matters for error therein assigned being joined heard and argued, and by the Court now here fully understood, and mature deliberation being thereupon had, It appears to the Court now here that in the Record and Proceedings aforesaid, and also in entering the Decree aforesaid, There is manifest Error, **Wherefore** It is considered by the Court that the Decree aforesaid be reversed annulled and

~~[illegible]~~

1823 Tuesday December 2nd 8th Day

altogether held for nothing, That the original bill herein in the Court below be dismissed, and that the appellees have and recover of and from the appellant the Costs in the Circuit Court aforesaid expended, and that they have execution thereof &c. And it is further considered and adjudged that the appellant have and recover of and from the appellees his Costs in this behalf
17 in this Court expended, and that he have execution thereof &c.

Charles G Ellis } Case in Error
versus }
29 Daniel F. Steinbeck, Louis Lorimier, Thomas Jefferson Rodney and Polly Rodney

The parties by their attornies came and the Court being now sufficiently advised of and concerning the premises, and the Record proceedings and Judgment aforesaid being seen, and the matters aforesaid for error assigned and joined being heard and argued, and by the Court here fully understood, and mature deliberation being thereupon had, It appears to the Court here that there is no error either in the Record proceedings or Judgment aforesaid, Therefore It is considered by the Court here, That the Judgment aforesaid in form aforesaid given, be in all things affirmed, and stand in full force, the matters aforesaid for error assigned notwithstanding. And that the Defendants have and recover of and from the Plaintiff as well their costs and charges in the Circuit Court aforesaid, as also their Costs in this Court

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expended &c and that they have execution thereof &c.

George W Ferguson } Case in Error.
versus
Joseph Frizil, Johnson Ranney William Neely and Anthony B. Neely executors of Joseph Seatbell deceased. 77

The parties by their attornies Came and the Record and proceedings aforesaid and the Judgment in form aforesaid being seen, and the matters for error assigned and joined being heard and argued, and the Court not being yet sufficiently advised of and concerning the premises, continue the same under advisement Until the next Term of this Court.

Richard H Walters Appellant } appeal in Chancery
against
Elizabeth Phillips Administratrix and Thomas Phillips Administrator of Samuel Phillips Deceased, Appellees. 78

The parties by their Solicitors Came Whereupon, It is considered by the Court that the Clerk of this Court do immediately deliver to the Clerk of the Circuit Court for the County of Cape Girardeau all the Papers which he may have Received from the Clerk of said Circuit Court in this Case, except the Transcript of the Proceedings in the late Superior Court of Chancery, certified to this Court by the Clerk of said Circuit Court.

James Tannier Surviving Plaintiff
of James Tannier and Stephen Ross
versus
Frances Roberts } Covenant in Error

And now the Court being sufficiently advised of and Concerning the premises are of the Opinion that there is manifest Error in the Record and proceedings and also in the rendition of the Judgment in this Case in the Court below — Therefore it is Considered by the Court now here that the Judgment aforesaid be Reversed, and the Same remanded to the Court below together with the decision and determination of this Court for proceedings there to be had in this Cause accordingly and award a writ of Enquiry and that the plaintiff have and recover of and from the defendant his Costs and Charges in and about the prosecuting his writ of Error in this behalf Expended and that he have Execution thereof &c

1823 Tuesday December 2nd 8th Day

And it is further Ordered that a Certiorari Returnable to the next Term of this Court be awarded herein, directed to the Clerk of said Circuit Court for the County of Cape Girardeau aforesaid, Commanding him to make out and certify to this Court, a full true and perfect Transcript of the Record and Process of the Plaint aforesaid with all things concerning them as fully and completely as the same remain of Record in the aforesaid Circuit Court.

76 James Tanner Surviving Plaintiff of James Tanner and Stephen Ross.
versus
Thomas Roberts } Covenant in Error.

The parties by their attornies came, whereupon It is considered by the Court that all proceedings in this Cause be stayed until the Order of the Court in vacation shall have been made, which Order shall be entered "Nunc pro Tunc."

Memorandum. This Record Book contains Fifty one Pages of the Judgments and Orders of the Supreme Court beginning with Page Two hundred and Sixteen and ending with Page Two hundred and Sixty six of the Term of November in the Year of

1823 Tuesday December 2nd 9th Day

of our Lord One Thousand eight hundred and twenty three and of the Independence of the United States of America XLVIII.

Mathias McGirk President of the Supreme Court

Whereupon the aforesaid Supreme Court adjourned Sine die.

Test, Claiborne Simms Thomas, }
Deputy Clerk }